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# Executive Orders

## EXECUTIVE ORDER JBE 20-11

Flags at Half-Staff—Glenn Hutto

WHEREAS, Sergeant Glenn Hutto, a distinguished member of the Baton Rouge Police Department, was killed in the line of duty on Sunday, April 26, 2020;

WHEREAS, Sergeant Hutto served the people of East Baton Rouge Parish for 21 years, most recently as Uniform Patrol Sergeant;

WHEREAS, the prayers of the people of the State of Louisiana are with Sergeant Hutto's family, and all of the law enforcement officers that put their lives at risk every day in order to serve and protect the people of our State and nation; and

WHEREAS, Sergeant Glenn Hutto lived his life with integrity and honor, and his service as a public servant to the Parish of East Baton Rouge and the State of Louisiana will long be remembered.

NOW THEREFORE, I, JOHN BEL EDWARDS, Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: As an expression of respect for Glenn Hutto, the flags of the United States and the State of Louisiana shall be flown at half-staff over the State Capitol and all public buildings within the Parish of East Baton Rouge until sunset on Monday, April 27, 2020.

SECTION 2: This Order is effective upon signature and shall remain in effect until sunset, Monday, April 27, 2020.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana in the City of Baton Rouge, on this 26th day of April, 2020.

John Bell Edwards  
Governor

ATTEST BY  
THE GOVERNOR  
R. Kyle Aroin  
Secretary of State  
2005#037

## EXECUTIVE ORDER JBE 20-12

Flags at Half-Staff—Peace Officers Memorial Day

WHEREAS, On May 8, 2020, President Donald J. Trump issued a Proclamation declaring the week of May 10, 2020, through May 15, 2020, as Police Week, and Friday, May 15, 2020, as Peace Officers Memorial Day;

WHEREAS, The President further called upon the Governors of the States and Territories subject to the jurisdiction of the United States to direct that the flag of the United States be flown at half-staff on Peace Officers Memorial Day, in accordance with Public Law 103-322 (36 U.S.C. 175); and

WHEREAS, the prayers of the people of the State of Louisiana are with all of the law enforcement officers who put their lives at risk every day in order to serve and protect the people of our state and nation, and with all their families and the families of those who have made the ultimate sacrifice in the line of duty.

NOW THEREFORE, I, JOHN BEL EDWARDS, Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: Friday, May 15, 2020, is hereby proclaimed Peace Officers Memorial Day.

SECTION 2: As an expression of respect for law enforcement officers throughout the state, and to pay tribute to the law enforcement officers who have made the ultimate sacrifice for our state, the flags of the United States and the State of Louisiana shall be flown at half-staff over the State Capitol and all public buildings throughout the state until sunset on Friday, May 15, 2020.

SECTION 3: This Order is effective upon signature and shall remain in effect until sunset, Friday, May 15, 2020.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana in the City of Baton Rouge, on this 14th day of May, 2020.

John Bell Edwards  
Governor

ATTEST BY  
THE GOVERNOR  
R. Kyle Aroin  
Secretary of State  
2005#037

## EXECUTIVE ORDER JBE 20-13

Flags at Half-Staff—Trooper George Baker

WHEREAS, George Baker, a distinguished member of the Louisiana State Police, died on Sunday, May 24, 2020 from injuries sustained in the line of duty;

WHEREAS, he is survived by his wife, Heather, their daughter Harper, his parents, his sisters, and his extended family;

WHEREAS, Trooper Baker honorably served the people of the United States for eight years in the United States Marine Corps Reserve, deploying on a combat tour in the Middle East;

WHEREAS, he further served his parish and his state, serving four years with the Greensburg Police Department, and four years with the St. Helena Parish Sheriff's Office before joining the Louisiana State Police;

WHEREAS, the prayers of the people of the State of Louisiana are with Trooper Baker's family, and all of the law enforcement officers that put their lives at risk every day in order to serve and protect the people of our State and nation; and

WHEREAS, Trooper George Baker lived his life with integrity and honor, and his service to the United States and the State of Louisiana will long be remembered.

NOW THEREFORE, I, JOHN BEL EDWARDS, Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: As an expression of respect for George Baker, the flags of the United States and the State of Louisiana shall be flown at half-staff over the State Capitol and all public buildings throughout the State of Louisiana until sunset on Thursday, May 28, 2020.

SECTION 2: This Order is effective upon signature and shall remain in effect until sunset, Thursday, May 28, 2020.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana in the City of Baton Rouge on this 26th day of May, 2020.

John Bell Edwards  
Governor

ATTEST BY  
THE GOVERNOR  
R. Kyle Aroin  
Secretary of State  
2005#037

#### EXECUTIVE ORDER JBE 20-14

Flags at Half-Staff—Ernest Durham Wooton

WHEREAS, Ernest Durham Wooton, a former distinguished member of the Louisiana Legislature, died at the age of 78 on Friday, May 29, 2020;

WHEREAS, he is survived by his wife of 53 years, Linda, their three children, Jeffrey, Kimberly, and John, nine grandchildren and step-grandchildren, and several great-grandchildren;

WHEREAS, he served his nation honorably in the United States Army from 1964-1966;

WHEREAS, he entered into public service in 1984 and served as Sheriff of Plaquemines Parish for two terms, during which time he founded the Plaquemines Parish Sheriff's Office Shooting Range and Junior Deputy Grounds in Myrtle Grove, as well as helping to coordinate a state-wide torch run for the Special Olympics;

WHEREAS, he served the parishes of Plaquemines, Jefferson, and St. Charles and his home of Belle Chasse in the Louisiana Legislature for twelve years, first elected to the House of Representatives in 1999, where he served for three terms; and

WHEREAS, Ernest Durham Wooton lived his life with integrity and honor, and his public service as a lawmaker to the State of Louisiana will long be remembered.

NOW THEREFORE, I, JOHN BEL EDWARDS, Governor of the State of Louisiana, by virtue of the authority

vested by the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: As an expression of respect for Ernest Durham Wooton, the flags of the United States and the State of Louisiana shall be flown at half-staff over the State Capitol from sunrise until sunset on Thursday, June 4, 2020.

SECTION 2: This Order is effective upon signature and shall remain in effect until sunset, Thursday, June 4, 2020.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana in the City of Baton Rouge, on this 2nd day of June, 2020.

John Bell Edwards  
Governor

ATTEST BY  
THE GOVERNOR  
R. Kyle Aroin  
Secretary of State  
2005#040

#### EXECUTIVE ORDER JBE 20-15

Flags at Half-Staff—Ronald Jude “Ron” Landry

WHEREAS, Ronald Jude Landry, a former distinguished member of the Louisiana Legislature, died at the age of 76 on Sunday, May 24, 2020;

WHEREAS, he is survived by his son, Christopher Benton Landry; his daughter, Lauryn Elizabeth Schenker; his stepson, Eric Williams Jr.; his stepdaughter, Dr. Katherine Williams; two brothers, David Landry and Dr. Barry Landry; his sister, Alice Landry Champagne; and eight grandchildren;

WHEREAS, first elected to the Senate in 1975, he served his state in the Louisiana Legislature for twenty-four years, representing St. John, St. Charles, and Lafourche Parishes;

WHEREAS, among other accomplishments, he further served the State of Louisiana as a delegate to the Southern Legislative Conference of the Council of State Governments and to the National Conference of State Legislators; and he was named Legislator of the Year by the Louisiana Deaf Commission; and

WHEREAS, Ronald Jude Landry lived his life with integrity and honor, and his public service as a lawmaker to the State of Louisiana will long be remembered.

NOW THEREFORE, I, JOHN BEL EDWARDS, Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: As an expression of respect for Ronald Jude Landry, the flags of the United States and the State of Louisiana shall be flown at half-staff over the State Capitol from sunrise until sunset on Friday, June 5, 2020.

SECTION 2: This Order is effective upon signature and shall remain in effect until sunset, Friday, June 5, 2020.

IN WITNESS WHEREOF, I have set my hand  
officially and caused to be affixed the Great Seal of  
Louisiana in the City of Baton Rouge, on this 2nd day of  
June, 2020.

John Bell Edwards  
Governor

ATTEST BY  
THE GOVERNOR  
R. Kyle Aroin  
Secretary of State

2005#041

# Emergency Rules

## DECLARATION OF EMERGENCY

### Department of Agriculture and Forestry Board of Veterinary Medicine

Continuing Veterinary Education and  
(LAC 46:LXXXV.405, 811, 1105, 1227, and 1517)

The Louisiana Board of Veterinary Medicine (LBVM) has exercised the emergency provisions of the Administrative Procedure Act, specifically R.S.49:953(B), and through the authority granted in R.S. 37:1518, and in accordance with Executive Department Proclamation Number 33 JBE 2020 to adopt an Emergency Rule which will add language to §403, §811, §1227, §1517 and §1105. The added language in these sections will give the board the ability to temporarily extend the time to obtain approved continuing education units related to the renewal and reinstatement of licenses to practice veterinary medicine, the certifications of registered veterinary technicians, certified animal euthanasia technicians, and registered equine dentists during the current fiscal year beginning July 1, 2019 through June 30, 2020. Any license renewed or reinstated under this exception shall meet the continuing education requirements to renew and maintain licensure following the end of the next fiscal year. The added language to §1105 will temporarily expand the process of obtaining training under the board's preceptorship program to include employment training under temporary permits to practice veterinary medicine through the end of calendar year 2020. Thereafter the requirements of the preceptorship program will apply to students enrolled in an accredited school of veterinary medicine and graduates.

In accordance with Governor Edwards' Proclamation Number 38 JBE 2020, section 2(P) the LBVM is adopting these rules to amend/waive rules that interfere with the licensing of healthcare providers that are necessary to address the declared public health emergency.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part LXXXV. Veterinarians

#### Chapter 4. Continuing Veterinary Education

#### §405. Exceptions and Exemptions

A. - C.3. ...

D. Notwithstanding any provision in this Chapter to the contrary, for the fiscal years beginning July 1, 2019 and ending June 30, 2021, a licensee shall have until June 30, 2021 to obtain the required minimum of 20 hours of approved continuing veterinary education as provided for in §403. The limitation of a maximum of 10 hours credit per fiscal year of approved videotaped, self-test programs with third party grading and/or self-help instruction, including online instruction with third-party grading per fiscal year as provided for in §403.A.2 of this Part shall not apply. All other requirements for license renewal are unaffected by the provisions of this subsection, including applying for license renewal and the payment of the annual renewal fee. This

extension is available without requirements of petition to the board, the showing of necessitous circumstances or the payment of late renewal fees or fines.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:224 (March 1990), amended LR 19:1428 (November 1993), LR 23:1147 (September 1997), LR 1478 (August 2003), LR 33:649 (April 2007), repromulgated LR 33:848 (May 2007), amended LR 38:1592 (July 2012), LR 46:

#### Chapter 8. Registered Veterinary Technicians

#### §811. Certificate Renewal, Late Charge, Continuing Education

A. - E.2. ...

3. Notwithstanding any provision in this Chapter to the contrary, for the fiscal years beginning July 1, 2019 and ending June 30, 2021, a certificate holder shall have until June 30, 2021 to obtain the required minimum of 10 approved continuing education units as provided for in §811 D. The limitation of a maximum of five hours of videotaped, self-test programs with third party grading, and/or self-help instruction, including online instruction with third party grading per fiscal year as provided for in §811.D.3 shall not apply. All other requirements for certificate renewal are unaffected by the provisions of this subsection, including the completion of the re-registration form and payment of the annual renewal fee. This extension is available without requirements of petition to the board, the showing of necessitous circumstances or the payment of a late renewal fee.

F. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1549.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:227 (March 1990), amended LR 23:1686 (December 1997), LR 26:84 (January 2000), LR 36:320 (February 2010), LR 37:1153 (April 2011), LR 46:

#### Chapter 11. Preceptorship Program

#### §1105. Applicants

A. - G. ...

H. Notwithstanding any provision of §1105.A. through G. to the contrary, applicants for a license to practice veterinary medicine in the state of Louisiana who have not completed a board approved preceptorship program, but who are otherwise qualified to receive a permanent license, will be issued temporary permits to practice veterinary medicine, provided:

1. the applicant is employed by a specialty facility, veterinary clinic, veterinary hospital, or other facility which is engaged in the practice of veterinary medicine;

2. the employment occurs at a facility which has been pre-approved by the board or preceptorship committee as preceptorship program site. If not pre-approved, the subject facility or applicant shall request a practice assessment questionnaire and job description form from the board and have it completed and returned to the board at least two

weeks prior to the commencement of that employment intended to qualify as a substitute for the training otherwise required through the Preceptorship program;

3. prior to said employment an agreement form provided by the board, indicating the date of the commencement of the employment, is submitted to the board at least two weeks in advance, signed by both the applicant and the employer supervisor or instructor;

4. where an applicant is employed on the effective date of this Emergency Rule, or said employment or facility has not been approved by the board as qualifying as a substitute for the training weeks required by the preceptorship program, the employment shall not qualify as a substitute for the preceptorship program, and a temporary permit shall not be issued, until the board approves the work site and employment, and an agreement form has been submitted. In all cases the board has the absolute discretion to determine when employment begins for purposes of substituting for the requirements of the preceptorship program, as well as the completion thereof;

5. provided the employment meets the requirements and conditions as set forth in this subsection, the first weeks of qualifying employment will be substituted for those weeks in training which the applicant lacks for completion of the preceptorship program provided for in this Chapter. A week of employment sufficient to be substituted for a week in training in the preceptorship program shall consist of a minimum of 40 hours during a maximum of 6 calendar days. A calendar day shall not exceed 12 hours in duration;

6. during the employment qualifying as substituting for the preceptorship program, the applicant shall be required to keep a daily log on a form provided by the board for the duration of those weeks of employment needed to complete the weeks of training required by the preceptorship program. This log form shall be reviewed and signed by the applicant's supervising, instructing veterinarian;

7. at the conclusion of the qualifying employment herein described, the applicant's supervising or instructing veterinarian shall complete an evaluation form provided by the board. This form shall be filed with the board within 20 days of the conclusion of those number of qualifying work weeks needed to satisfy the number of weeks in training for completion of the preceptorship program;

8. the board shall have the discretionary right to require an applicant, who has received an unfavorable evaluation, to repeat the number of working weeks needed to substitute for those training weeks needed to satisfy the requirements of the preceptorship program for licensure with another employer selected by the applicant and pre-approved by the board. It shall also have the discretionary right, in the event of an unfavorable evaluation, to revoke the temporary permit allowed by this subsection and to require the applicant to fully complete the preceptorship program as otherwise provided for in this Chapter;

9. upon an applicant obtaining a successful evaluation following the applicant's employment as provided for herein, a permanent license will be issued in lieu of the temporary permit, provided the applicant has completed all other requirements for a license to practice veterinary medicine in the state of Louisiana;

10. this Emergency Rule shall be effective upon signature and valid for 120 days and may be extended for

additional 90-day increments upon written request and as determined appropriate by the board, but not after December 31, 2020.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:232 (March 1990), amended LR 23:1686 (December 1997), LR 24:942 (May 1998), LR 27:543 (April 2001), LR 37:1571 (June 2011), LR 38:357 (February 2012), LR 46:

## **Chapter 12. Certified Animal Euthanasia Technicians §1227. Continuing Education**

A. - B.2. ...

3. Notwithstanding any provision in this Chapter to the contrary, for the fiscal years beginning July 1, 2019 and ending June 30, 2021, a certificate holder shall have until June 30, 2021 to obtain the required minimum of six approved continuing education units as provided for in §1227.A. The limitation of a maximum of three hours of videotaped, self-test programs with third party grading, and/or self-help instruction, including online instruction with third party grading per fiscal year as provided for in §1227.A.3 shall not apply. All other requirements for certificate renewal are unaffected by the provisions of this subsection, including the completion of a re-registration form and payment of the annual renewal fee, plus submitting any other documents required by the board. This extension is available without requirements of petition to the board, the showing of necessitous circumstances or the payment of a late renewal fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1558.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 26:321 (February 2000), amended LR 36:320 (February 2010), LR 37:1153 (April 2011), amended by the Department of Health, Board of Veterinary Medicine, LR 44:588 (March 2018), LR 46:

## **§1517. Continuing Education**

A. - B.3. ...

4. Notwithstanding any provision in this Chapter to the contrary, for the fiscal years beginning July 1, 2019 and ending June 30, 2020, a certificate holder shall have until June 30, 2021 to obtain the required minimum of six approved continuing education units as provided for in §1517.A. All other requirements for certificate renewal are unaffected by the provisions of this subsection, including the completion of a re-registration form and payment of the annual renewal fee, plus submitting any documents required by the board. Also unaffected by the provisions of this subsection are the requirements for continuing education for the fiscal year beginning July 1, 2020 and ending June 30, 2021. This extension is available without requirements of petition to the board, the showing of necessitous circumstances or the payment of a late renewal fee.

C. - C.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 26:492 (March 2000), amended LR 46:

James Corley, DVM  
President

2006#024

## DECLARATION OF EMERGENCY

### Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences

#### Guava Root Knot Nematode Quarantine (LAC 7:XV.171)

In accordance with the emergency provisions of the Administrative Procedures Act, R.S. 49:953 (B), and the authority of the state entomologist under the provisions of R.S. 3:1652, notice is hereby given that Department of Agriculture and Forestry ("Department") is, by emergency rule, amending LAC 7:XV.171. The amendments to this rule will allow sweet potatoes for processing from quarantined areas into Louisiana under special permit.

The department previously adopted the Guava Root Knot Nematode (GRKN) quarantine which restricts the movement of sweet potatoes into Louisiana. Excessive rainfall during the 2019 fall harvest season has caused a hardship on sweet potato production which will likely affect the welfare of the sweet potato processing industry in Louisiana if measures are not taken to mitigate the situation. A shortage of sweet potatoes caused by adverse environmental conditions, along with the GRKN quarantine currently in place, has limited the amount of sweet potatoes the processing industry can source from Louisiana producers and producers from surrounding states. Due to these adverse conditions and the current GRKN quarantine, Louisiana processors will be approximately 30 percent short of their annual sweet potato volume needed to keep processing facilities running year round. Without the ability to purchase additional sweet potatoes from outside the mid-south region, the industry is in jeopardy of having to cease operations for several months. Employees of processing facilities may be affected by potential plant closings as it is estimated that the total cost of lost wages and benefits would amount to \$2.5 million. Potential plant closings could also affect the welfare of the sweet potato industry by creating a limited market for producers to sell their sweet potatoes to processors. In 2019, sweet potato acreage in Louisiana was approximately 7,600 acres. According to Louisiana State University AgCenter, the processing market in Louisiana is a significant market and utilizes 65 percent of Louisiana's sweet potato crop. This declaration of emergency is required in order to provide the sweet potato processing industry an opportunity to source sweet potatoes from areas quarantined for GRKN to the processing facility under special permit issued by the department.

This Rule shall have the force and effect of law upon signature and will remain in effect 120 days, unless renewed by the commissioner of agriculture and forestry or until permanent rules are promulgated in accordance with law.

#### Title 7

#### AGRICULTURE AND ANIMALS

#### Part XV. Plant Protection and Quarantine

#### Chapter 1. Crop Pests and Diseases

#### Subchapter H. Guava Root Knot Nematode Quarantine

#### §171. Guava Root Knot Nematode Quarantine

A. - D.1. ...

2. certified seed sweet potatoes and sweet potatoes for processing may be moved from the quarantine area into

Louisiana under a Special Permit issued by Louisiana Department of Agriculture and Forestry.

D.3. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1652, 3:1653.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 45:1437 (October 2019), amended LR 46:

Mike Strain DVM  
Commissioner

2005#001

## DECLARATION OF EMERGENCY

### Office of the Governor Boxing and Wrestling Commission

#### Blood Work Lab Results for Class B Contestants (LAC 46:XI.525)

The Louisiana State Boxing and Wrestling Commission does hereby exercise the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B). By this Emergency Rule, the commission will amend Chapter 5, Subchapter B. Class "B" Wrestling to provide small event wrestling promoters relief from the responsibility of verifying bloodwork lab reports. This responsibility was formerly held by ring doctors and/or event coordinators under Chapter 1, General Rules. Due to the promulgation of R.S. 4.83(B) in 2018, Class B events are not required to have a doctor, event coordinator or commissioner in attendance at these events to review and verify bloodwork lab reports to ensure the validity and negative results of HIV, Hepatitis B and C. The commission will provide an avenue for collection of these Class "B" lab reports and establish a database whereupon the commission will become responsible for the review and verification of these lab reports for a fee of \$150 per event. The database will contain no personal medical information. This database will be restricted to the name of the contestant, date of blood testing, the negative or positive results and expiration date so as to track when contestants require new testing every six months in accordance with §108.A, Medical Requirements under this Title.

This Emergency Rule is effective June 20, 2020, and will remain in effect for a period of 120 days, unless renewed by the commissioner or until adoption of the final Rule, whichever occurs first.

#### Title 46

#### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Chapter 5. Professional Wrestling

#### Subchapter B. Class "B" Wrestling

#### §525. Wrestling Promoters Class "B" Licensing

A. - F. ...

G. Blood work laboratory results for Class "B" contestants, as required by General Rules - §108(A) Medical Requirements, will be reviewed and verified by the commission and the results entered into an established database.

1. Class "B" contestant's lab reports will be submitted to the commission directly from the testing physician's

laboratory or independent laboratory via hard copy, fax or other electronic submission to confirm negative results and verification of legitimacy.

2. A fee of \$150 per Class "B" event will be collected by the commission from the promoter to cover the costs of this verification process.

AUTHORITY NOTE: Promulgated in accordance with 4:64, 4:65 and 4:83(B)

HISTORICAL NOTE: Adopted by the Office of the Governor, Boxing and Wrestling Commission, LR 45:541 (April 2019), amended LR 46:

Addie L. Fields  
Administrative Assistant

2005#004

## DECLARATION OF EMERGENCY

### Department of Health Board of Embalmers and Funeral Directors

#### Suspension of Funeral Establishment and Crematory Authority Renewal Fee (LAC 46:XXXVII.Chapter 7)

On January 31, 2020, the United States Department of Health and Human Services Secretary Alex A. Azar declared a public health emergency (PHE) for the United States to aid the nation's healthcare community in responding to the coronavirus disease (COVID-19). The United States Centers for Disease Control and Prevention (CDC) has declared COVID-19 a worldwide pandemic due to its global effect. Furthermore, on March 13, 2020, President Donald Trump invoked the Stafford Act and declared a national emergency regarding the COVID-19 outbreak. COVID-19 has been detected in the state of Louisiana with a growing number of residents testing positive for the disease. There is reason to believe that COVID-19 may spread among the population by various means of exposure, therefore posing a significant risk of substantial harm to a large number of citizens.

This Emergency Rule is issued to address the mass disruption to the normalcy previously enjoyed by citizens of Louisiana as a result of the effects of COVID-19. Specifically, Proclamation No. JBE 2020-33 and Proclamation No. JBE 2020-41, declaring a stay at home order, this Emergency Rule is issued under the authority of the Louisiana State Board of Embalmers and Funeral Directors, pursuant to the following: House Concurrent Resolution No. 71, issued on June 1, 2020

COVID-19 has created a mass disruption to the normalcy previously enjoyed by Louisianans and is an immediate threat to the public health, safety, and welfare of Louisiana citizens. In order to respond to the emergency and to protect and safeguard the public, health, safety and welfare of the citizens of this state, it is necessary to issue this Emergency Rule.

## Title 46

### EMBALMERS AND FUNERAL DIRECTORS

#### Part XXXVII. Regulations

#### Chapter 7. Suspension of Funeral Establishment and Crematory Authority Renewal Fee

##### §708. Purpose

A. This Emergency Rule provides for the suspension of renewal fees for licenses of funeral establishments and crematory authority who have been negatively impacted by the related commercial and economic impacts of COVID-19, in accordance with Proclamation No. JBE 2020-33, issued on March 22, 2020, by Governor John Bel Edwards declaring a stay at home order and closure of nonessential businesses until April 13, 2020 and Proclamation No. JBE 2020-41 issued on April 2, 2020, declaring a stay at home order and closure of nonessential businesses until April 30, 2020 and House Concurrent Resolution No. 71.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, Proclamation No. JBE 2020-37, Proclamation No. JBE 2020-41, House Concurrent Resolution No. 71.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Embalmers and Funeral Directors LR 46:

##### §709. Applicability and Scope

A. Suspension of funeral establishment and crematory authority renewal fee shall apply to funeral establishments' licenses with an expiration date of December 31, 2020 and crematory authority licenses with an expiration date of May 15, 2021.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, Proclamation No. JBE 2020-37, Proclamation No. JBE 2020-41, House Concurrent Resolution No. 71.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Embalmers and Funeral Directors LR 46:

##### §710. Definitions

A. For the purposes of this Emergency Rule the following terms are defined as follows.

*Funeral Establishment*—as defined in R.S. 37:831 (44).

*Crematory Authority*—as defined in R.S. 37:831 (28)

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, Proclamation No. JBE 2020-37, Proclamation No. JBE 2020-41, House Concurrent Resolution No. 71.

HISTORICAL NOTE: Promulgated by the Louisiana State Board of Embalmers and Funeral Directors LR 46:

##### §711. Suspension of Time to Renew

A. Every funeral establishment license with a renewal date of December 31, 2020 is suspended until June 30, 2021.

B. Every crematory authority with a renewal date of May 15, 2021 is suspended until June 30, 2021.

C. Renewals submitted in compliance with this Emergency Rule shall not be subject to a late fee.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, Proclamation No. JBE 2020-37,

Proclamation No. JBE 2020-41, House Concurrent Resolution No. 71.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Embalmers and Funeral Directors LR 46:

**§712. Licenses to Remain Valid**

A. During the suspended renewal period, the funeral establishment and crematory authority license is subject to this Emergency Rule shall remain valid unless surrendered, suspended or revoked.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, Proclamation No. JBE 2020-37, Proclamation No. JBE 2020-41, House Concurrent Resolution No. 71.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Embalmers and Funeral Directors LR 46:

**§713. Effective Date**

A. This Emergency Rule shall become effective at 12:01 a.m. on June 1, 2020 and shall continue in full force and effect until expiration on June 30, 2021 for funeral establishments and June 30, 2021 11:59 p.m. for a crematory authority.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, Proclamation No. JBE 2020-37, Proclamation No. JBE 2020-41, House Concurrent Resolution No. 71.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Embalmers and Funeral Directors LR 46:

**§714. Severability**

A. If any section or provision of this Emergency Rule or its application to any person or circumstance is held invalid, such invalidity or determination shall not affect other sections or provisions, or the application of this Emergency Rule to any persons or circumstances that can be given effect without the invalid section or provision or application, and for these purposes the sections and provisions of this Emergency Rule and the application to any persons or circumstances are severable.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, Proclamation No. JBE 2020-37, Proclamation No. JBE 2020-41, House Concurrent Resolution No. 71.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Embalmers and Funeral Directors LR 46:

Kim W. Michel  
Executive Director

2006#007

**DECLARATION OF EMERGENCY**

**Department of Health  
Board of Embalmers and Funeral Directors**

Suspension of Funeral Establishment  
and Crematory Authority Renewal Fee  
(LAC 46:XXXVII.Chapter 7)

This Emergency Rule is hereby rescinded. The Board of Embalmers and Funeral directors is exempt from HCR 71 of

the 2020 Regular Session according to an Amendment within the House Concurrent Resolution 71.

Kim W. Michel  
Executive Director

2006#007

**DECLARATION OF EMERGENCY**

**Department of Health  
Bureau of Health Services Financing**

Emergency Telemedicine  
(LAC 50:I.505)

The Department of Health, Bureau of Health Services Financing adopts LAC 50:I.505 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health, Bureau of Health Services Financing promulgated an Emergency Rule which adopted provisions governing coverage of telemedicine during a declared disaster (*Louisiana Register*, Volume 46, Number 4). This Emergency Rule is being promulgated in order to continue the provisions of the March 16, 2020 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by ensuring continued and expanded access to telemedicine services during a declared emergency.

Effective July 15, 2020, the Department of Health, Bureau of Health Services Financing adopts provisions governing the coverage of telemedicine during a declared emergency.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part I. Administration**

**Subpart 1. General Provisions**

**Chapter 5. Telemedicine**

**§505. Telemedicine in the Event of an Emergency**

A. In the event of a declared emergency, Medicaid may temporarily cover services provided through the use of an interactive audio telecommunications system, without the requirement of video, if such action is determined to be necessary to ensure sufficient services are available to meet recipients' needs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 46:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Ruth Johnson, Bureau of Health Services Financing, P.O. Box

91030, Baton Rouge, LA 70821-9030. Ms. Johnson is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Dr. Courtney N. Phillips  
Secretary

2006#031

## DECLARATION OF EMERGENCY

**Department of Health  
Bureau of Health Services Financing  
and  
Office of Aging and Adult Services  
and  
Office of Behavioral Health**

Programs and Services Amendments  
Due to the Coronavirus Disease 2019 (COVID-19)  
Statewide Public Health Emergency

On January 30, 2020, the World Health Organization declared a public health emergency of international concern and on January 31, 2020, U.S. Health and Human Services Secretary Alex M. Azar II declared a public health emergency for the United States in response to the recent coronavirus disease 2019 (hereafter referred to as COVID-19) outbreak. On March 11, 2020, Governor John Bel Edwards declared a statewide public health emergency to exist in the State of Louisiana as a result of the imminent threat posed to Louisiana citizens by COVID-19. Likewise, the presidential declaration of the public health emergency related to COVID-19 has an effective date of March 1, 2020.

In response to these public health emergency declarations and the rapid advancement of COVID-19 throughout Louisiana, the Department of Health, Bureau of Health Services Financing, the Office of Aging and Adult Services (OAAS), and the Office of Behavioral Health (OBH) promulgated an Emergency Rule which amended the provisions of Title 50 of the *Louisiana Administrative Code* in order to adopt temporary measures to provide for the continuation of essential programs and services to ensure the health and welfare of the citizens of Louisiana in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq. (*Louisiana Register*, Volume 46, Number 4). This Emergency Rule is being promulgated to continue the provisions of the Emergency Rule adopted on March 19, 2020. This Emergency Rule shall be in effect for the maximum period allowed under the Act or the duration of the COVID-19 statewide public health emergency declaration, whichever comes first.

The department amends Title 50 of the *Louisiana Administrative Code* to enact the following provisions throughout the duration of the COVID-19 presidential public health emergency declaration:

### **Nursing Facilities—Reimbursement Methodology— Reimbursement Adjustment (LAC 50:II.20006)**

The per diem rate paid to non-state nursing facilities shall contain an add-on of \$12 for the period of the presidential COVID-19 declaration.

### **Nursing Facilities—Reimbursement Methodology— Leave of Absence Days (LAC 50:II.20021)**

For each Medicaid recipient, nursing facilities shall be reimbursed for up to seven hospital leave of absence days per occurrence and 15 home leave of absence days per calendar year.

For dates of service during the presidential COVID-19 declaration, the state may allow the reimbursement paid for leave of absence days to be equal to 100 percent of the applicable per diem rate.

### **Intermediate Care Facilities for Persons with Intellectual Disabilities—Emergency Awareness—Payment Limitations (LAC 50:VII.33101)**

For dates of service during the presidential COVID-19 declaration, the state may waive the annual 45 day limit on the client's leave of absence, the limitation of 30 consecutive days, and the inclusion of the leave in the written individual habilitation plan for recipients that return to the facility for at least 24 hours prior to any discharge/transfer.

Payments to providers for these days will not include any enhanced rate add-ons (i.e., Complex Care, Pervasive Plus), and providers will appropriately submit them as leave days when billing for payment.

### **Services for Special Populations—Personal Care Services (LAC 50:XV.Subpart 9)**

Relaxation of long term-personal care services (LT-PCS) provisions during the presidential COVID-19 declaration:

Recipients of long term-personal care services (LT-PCS) may receive more weekly service hours than what is assigned for his/her level of support category;

The state may increase the maximum number of LT-PCS hours received per week;

Recipients may receive LT-PCS in another state without prior approval of OAAS or its designee;

Recipients may receive LT-PCS while living in a home or property owned, operated or controlled by a provider of services who is not related by blood or marriage to the recipient;

Individuals may concurrently serve as a responsible representative for more than two recipients without an exception from OAAS;

The following individuals may provide services to the recipient of LT-PCS: the recipient's spouse; the recipient's curator; the recipient's tutor; the recipient's legal guardian; the recipient's responsible representative; or the person to whom the recipient has given representative and mandate authority (also known as power of attorney);

The state may allow exceptions to the requirements that services must be provided in accordance with the approved plan of care and/or supporting documentation;

The state may allow exceptions to LT-PCS prior authorization requirements;

The state may increase and/or modify reimbursement rates for LT-PCS;

Recipients may orally designate/authorize or make changes to the responsible representative during the emergency. However, once the emergency declaration is over, the recipient must submit a written designation on the appropriate OAAS form to designate a responsible representative;

The state may offer recipients the freedom to choose another LT-PCS provider if the designated provider is not able to provide services;

The state may modify the minimum age requirement for direct care workers; and

The state may allow exceptions to the requirement that the place(s) of service must be documented in the plan of care.

#### **Home and Community-Based Services Waivers—Adult Day Health Care Waiver (LAC 50:XXI.Subpart 3)**

With approval from the Centers for Medicare and Medicaid Services (CMS) as applicable, the following provisions of the Adult Day Health Care (ADHC) Waiver are relaxed during the presidential COVID-19 declaration:

Adult Day Health Care (ADHC) Waiver participants are allowed to receive ADHC services in his/her home by licensed and/or certified ADHC staff (i.e. RN, LPN, PCA and/or CNA);

The current assessments/re-assessments remain in effect past the annual (12 month) requirement;

Participants are not discharged if services are interrupted for a period of 30 consecutive days as a result of not receiving or refusing ADHC services;

Participants are not discharged for failure to attend the ADHC center for a minimum of 36 days per calendar quarter;

The state may elect to make retainer payments to ADHC providers when the ADHC center is closed;

Individuals may concurrently serve as a responsible representative for more than two participants without an exception from OAAS;

The state may allow exceptions to prior authorization requirements;

The state may increase and/or modify reimbursement rates for ADHC providers; and

The state may allow exceptions to the requirements that services must be provided in accordance with the approved plan of care and/or supporting documentation.

#### **Home and Community-Based Services Waivers—Community Choices Waiver (LAC 50:XXI.Subpart 7)**

With approval from the Centers for Medicare and Medicaid Services (CMS) as applicable, the following provisions of the Community Choices Waiver (CCW) are relaxed during the presidential COVID-19 declaration:

Community Choices Waiver (CCW) participants are allowed to receive personal assistance services (PAS) in another state without prior approval of OAAS or its designee;

Participants may receive PAS while living in a home or property owned, operated or controlled by a provider of services who is not related by blood or marriage to the participant without prior approval of OAAS or its designee;

The current assessment/re-assessment remains in effect past the annual (12 month) requirement;

CCW participants are not discharged if services are interrupted for a period of 30 consecutive days as a result of not receiving and/or refusing services;

Participants are not discharged from CCW self-directed services for failure to receive those services for 90 days or more;

Individuals may concurrently serve as a responsible representative for more than two participants without an exception from OAAS;

Participants may receive an increase in his/her annual services budget;

The following individuals may provide services to the participant: the participant's spouse; the participant's curator; the participant's tutor; the participant's legal guardian; the participant's responsible representative; or the person to whom the participant has given representative and mandate authority (also known as power of attorney);

Participants may receive Adult Day Health Care (ADHC) services in his/her home by licensed and/or certified ADHC staff (i.e. RN, LPN, PCA and/or CNA);

The state may elect to make retainer payments to ADHC providers when the ADHC center is closed;

The state may allow exceptions to the requirements that services must be provided in accordance with the approved plan of care and/or supporting documentation;

The state may allow exceptions to prior authorization requirements;

Participants may receive more than two home delivered meals per day;

The state may allow monitored in-home caregiving (MIHC) providers to monitor participants via frequent telephone contacts and/or telehealth;

The state may modify the minimum age requirement for direct care workers; and

The state may increase and/or modify reimbursement rates for CCW providers.

#### **Behavioral Health Services—Home and Community-Based Services Waiver (LAC 50:XXXIII.Subpart 9)**

With approval from the Centers for Medicare and Medicaid Services (CMS) as applicable, the following provisions of the Coordinated System of Care (CSoC) Waiver are relaxed during the presidential COVID-19 declaration:

Coordinated System of Care (CSoC) Waiver participants are allowed to receive CSoC waiver services in another state;

The current level of care evaluation/re-evaluation remains in effect beyond the semi-annual requirement;

CSoC participants are not discharged for failing to receive a face-to-face visit from the wraparound facilitator for 60 consecutive calendar days or more;

Services may be provided telephonically or through videoconferencing means in accordance with LDH-issued guidance;

Providers and wraparound facilitators are required to document all service activities in accordance with guidance issued by LDH and the CSoC contractor; and

Plan of care reviews and timelines may be extended.

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Ruth Johnson, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. Johnson is

responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Dr. Courtney N. Phillips  
Secretary

2006#032

## DECLARATION OF EMERGENCY

### Department of Health Office of Public Health

#### COVID-19 Disease Reporting (LAC 51:II.105 and 107)

The Louisiana Department of Health, Office of Public Health (LDH/OPH), pursuant to the emergency rulemaking authority granted by R.S. 40:4(A)(13), hereby adopts the following Emergency Rule for the protection of public health. This Emergency Rule is promulgated specifically in accordance with R.S. 49:953(B) of the Administrative Procedure Act (R.S. 49:950, et seq.). The LDH/OPH expressly finds that an imminent peril to the public health, safety, or welfare requires adoption of this rule on an emergency basis.

The LDH/OPH finds it necessary to add Coronavirus Disease 2019 (COVID-19)/Infections with SARS-CoV-2 to the list of reportable diseases and conditions set forth in §105 of Part II of the Sanitary Code (LAC Title 51). On January 30, 2020, the International Health Regulations Emergency Committee of the World Health Organization declared the recent COVID-19 outbreak a “public health emergency of international concern” (PHEIC). On January 31, 2020, U.S. Health and Human Services Secretary Alex M. Azar II declared a public health emergency (PHE) for the United States to aid the nation’s healthcare community in responding to COVID-19.

The following Emergency Rule, effective July 5, 2020, shall remain in effect for a maximum of 120 days, or until the final Rule is promulgated, whichever occurs first.

#### Title 51

### PUBLIC HEALTH—SANITARY CODE

#### Part II. The Control of Diseases

#### Chapter 1. Disease Reporting Requirements

#### §105. Reportable Diseases and Conditions

A. - C. ...

D. The following diseases or conditions are hereby declared reportable with reporting requirements by class.

1. Class A Diseases or Conditions which Shall Require Reporting within 24 Hours

a. Class A diseases or conditions include diseases or conditions of major public health concern because of the severity of the disease or condition and the potential for epidemic spread. Class A diseases or conditions shall be reported to the Office of Public Health by telephone (or in another electronic format acceptable to the Office of Public Health) immediately upon recognition that a case, a suspected case, or a positive laboratory result is known. In addition, all cases of rare or exotic communicable diseases, unexplained death, unusual clusters of disease and all outbreaks shall be reported. Any class A disease or condition, rare or exotic communicable disease, unexplained death, or unusual cluster of disease and any disease

outbreak, shall be reported to the Office of Public Health as soon as possible but no later than 24 hours from recognition that a case, a suspected case, a positive laboratory result, an unexplained death, an unusual cluster of disease, or a disease outbreak is known. The following diseases or conditions shall be classified as class A for reporting requirements:

- i. - x. ...
- xi. coronavirus disease 2019 (COVID-19)/Infections with SARS-CoV-2;
- xii. diphtheria;
- xiii. *Enterobacteriaceae*, carbapenem-resistant;
- xiv. fish or shellfish poisoning (domoic acid poisoning, neurotoxic shellfish poisoning, ciguatera, paralytic shellfish poisoning, scombroid);
- xv. food-borne illness;
- xvi. glanders (*Burkholderia mallei*);
- xvii. *Haemophilus influenzae* (invasive infection);
- xviii. influenza-associated mortality;
- xix. measles (rubeola, imported or indigenous);
- xx. melioidosis (*Burkholderia pseudomallei*);
- xxi. *Neisseria meningitidis* (invasive infection);
- xxii. outbreaks of any infectious diseases;
- xxiii. pertussis;
- xxiv. plague (*Yersinia pestis*);
- xxv. poliomyelitis (paralytic and non-paralytic);
- xxvi. *Pseudomonas aeruginosa*, carbapenem-resistant;
- xxvii. Q fever (*Coxiella burnettii*);
- xxviii. rabies (animal and human);
- xxix. ricin poisoning;
- xxx. rubella (congenital syndrome);
- xxxi. rubella (German measles);
- xxxii. severe acute respiratory syndrome-associated coronavirus (SARS-CoV);
- xxxiii. *Staphylococcus aureus*, vancomycin intermediate or resistant (VISA.VRSA);
- xxxiv. staphylococcal enterotoxin B (SEB) pulmonary poisoning;
- xxxv. smallpox;
- xxxvi. tularemia (*Francisella tularensis*);
- xxxvii. viral hemorrhagic fever (Ebola, Lassa, Marburg, Crimean Congo, etc.); and
- xxxviii. yellow fever.

D.2. - E.6. ...

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(2) and R.S. 40:5(2)(10)(11).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1212 (June 2002), amended LR 32:1050 (June 2006), LR 34:2173 (October 2008), repromulgated LR 34:2582 (December 2008), LR 36:1014 (May 2010), repromulgated LR 36:1253 (June 2010), amended LR 39:1053 (April 2013), LR 41:2653 (December 2015), amended by the Department of Health, Office of Public Health, amended LR 45:667 (May 2019), LR 46:

#### §107. Laboratory and Healthcare Facility Reporting Requirements (Formerly §113)

A. - E. ...

F. Electronic reporting by a laboratory/facility shall include any results, negative or positive, for all components of testing indicative of the following conditions:

1. coronavirus disease 2019 (COVID-19)/Infections with SARS-CoV-2;

2. hepatitis C virus;
3. human immunodeficiency virus (HIV), including nucleotide sequences; and
4. syphilis.

G. ...

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(2) and R.S. 40:5(2)(10)(11).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1214 (June 2002), amended LR 32:1052 (June 2006), LR 39:1054 (April 2013), LR 41:2655 (December 2015), amended by Department of Health, Office of Public Health, LR 45:669 (May 2019), LR 46:

Interested persons may submit written comments to DeAnn Gruber, Bureau Director, Bureau of Infectious Diseases, Office of Public Health, 1450 Poydras St., Ste. 2136, New Orleans, LA, 70112 or faxed to (504) 568-7044.

Jimmy Guidry, MD  
State Health Officer  
and  
Dr. Courtney N. Phillips  
Secretary

2006#026

## DECLARATION OF EMERGENCY

### Workforce Commission Office of Workers' Compensation Administration

Medical Treatment Guidelines (LAC 40:I.5125 and 5157)

The Louisiana Workforce Commission has exercised the emergency provision in accordance with R.S. 49:953 (B), the Administrative Procedure Act to amend certain portions of the Medical Guidelines contained in the Louisiana Administrative Code, Title 40, Labor and Employment, Part I, Workers' Compensation Administration, Subpart 2, Medical Guidelines, Chapter 51. This Emergency Rule effective May 22, 2020, will remain in effect for a period of 120 days.

The aim of this Emergency Rule is to temporarily add additional codes for the purpose of delivering care and allowing providers to use telemedicine/telehealth methods. This does not affect current existing CPT codes.

COVID-19 has created a mass disruption to the normalcy previously enjoyed by Louisianans and is an immediate threat to the public health, safety, and welfare of Louisiana citizens. In order to respond to the emergency and to protect and safeguard the public, health, safety and welfare of the citizens of this state, it is necessary to issue this Emergency Rule.

The department considers emergency action necessary to facilitate the timely payment to HCP for services rendered to injured workers pending enactment of a rule through regular administrative procedure. Notice is hereby given, in accordance with R.S. 49:950, et seq., that the Louisiana Workforce Commission, Office of Workers' Compensation, pursuant to authority vested in the Assistant Secretary of the Office of Workers' Compensation by R.S. 23:1291 and 23:1310.1, and in accordance with applicable provisions of the Administrative Procedure Act, proposes to amend LAC 40:I.Chapters 51.

## Title 40

### LABOR AND EMPLOYMENT

#### Part I. Workers' Compensation Administration

##### Subpart 2. Medical Guidelines

#### Chapter 51. Medical Reimbursement Schedule

Editor's Note: The following Sections of this Chapter are applicable and shall be used for the Chapters in this Part governing reimbursement. These specific Chapters are: Chapter 25, Hospital Reimbursement; Chapter 29, Pharmacy; Chapter 31, Vision Care Services; Chapter 33, Hearing Aid Equipment and Services; Chapter 35, Nursing/Attendant Care and Home Health Services; Chapter 37, Home and Vehicle Modification; Chapter 39, Medical Transportation; Chapter 41, Durable Medical Equipment and Supplies; Chapter 43, Prosthetic and Orthopedic Equipment; Chapter 45, Respiratory Services; Chapter 47, Miscellaneous Claimant Expenses; Chapter 49, Vocational Rehabilitation Consultant; Chapter 51, Medical Reimbursement Schedule; and Chapter 53, Dental Care Services.

#### §5125. Special Instructions

##### A. Procedure Codes Not Listed in Rules

1. - 3. ...

##### B. Modifiers

1. Modifier codes must be used by providers to identify procedures or services that are modified due to specific circumstances.

2. Modifiers listed in the CPT must be added to the procedure code when the service or procedure has been altered from the basic procedure described by the descriptor.

3. When Modifier-22 is used to report an unusual service, a report explaining the medical necessity of the situation must be submitted with the claim to the carrier. It is not appropriate to use Modifier-22 for routine billing.

4. The use of modifiers does not imply or guarantee that a provider will receive reimbursement as billed. Reimbursement for modified services or procedures must be based on documentation of medical necessity and must be determined on a case by case basis.

5. The modifier 95 appended to a code indicates it was performed by telemedicine/telehealth methods. Services should be reimbursed the same amount as the exact same codes without the modifier as long as the Emergency Rule exist. If carrier requires a Place of Service (POS) code for telemedicine/telehealth, code 02 may be used.

C.- F. 2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1034.2.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 19:54 (January 1993), repromulgated LR 19:212 (February 1993), amended LR 20:1299 (November 1994). amended by the Louisiana Workforce Commission, Office of Workers' Compensation Administration, LR 46:

#### §5157. Maximum Reimbursement Allowances

##### A. Table 1

\* \* \*

##### B. Table 2

CPT Code	Mod	Description	Global Days	Maximum Allowance	Non-Facility Maximum	Facility Maximum
* * *						
86328		IA Infectious Agt Antibody Sars-Cov-2 Covid19		\$90		

CPT Code	Mod	Description	Global Days	Maximum Allowance	Non-Facility Maximum	Facility Maximum
***						
86769		Antb Severe Aqt Respir Synd Sars-Cov-2 Covid19		\$84		
***						
87635		Iadna Sars-Cov-2 Covid-19 Amplified Probe Tq		\$103		
***						
90791		Psychiatric Diagnostic Evaluation		BR		
90792		Psychiatric Diagnostic Eval W/Medical Services		BR		
***						
90832		Psychotherapy W/Patient 30 Minutes		BR		
90833		Psychotherapy W/Patient W/E&M Srvc 30 Min		BR		
90834		Psychotherapy W/Patient 45 Minutes		BR		
90836		Psychotherapy W/Patient W/E&M Srvc 45 Min		BR		
90837		Psychotherapy W/Patient 60 Minutes		BR		
90838		Psychotherapy W/Patient W/E&M Srvc 60 Min		BR		
***						
90863		Pharmacologic Management W/Psychotherapy		BR		
***						
92521		Evaluation Of Speech Fluency (Stutter Clutter)		BR		
92522		Evaluation Of Speech Sound Production Articulate		BR		
92523		Eval Speech Sound Product Language Comprehension		BR		
92524		Behavioral & Qualit Analysis Voice And Resonance		BR		
***						
96105		Assessment Aphasia W/Interp & Report Per Hour		BR		
***						
96156		Health Behavior Assessment/Re-Assessment		BR		
96158		Health Behavior Ivntj Indiv F2f		BR		

CPT Code	Mod	Description	Global Days	Maximum Allowance	Non-Facility Maximum	Facility Maximum
		1st 30 Min				
96159		Health Behavior Ivntj Indiv F2f Ea Adtl 15 Min		BR		
***						
97129		Ther Ivntj Cog Funcj Cntct 1st 15 Minutes		BR		
97130		Ther Ivntj Cog Funcj Cntct Ea Adtl 15 Minutes		BR		
***						
97161		Physical Therapy Evaluation Low Complex 20 Mins		BR		
97162		Physical Therapy Evaluation Mod Complex 30 Mins		BR		
97163		Physical Therapy Evaluation High Complex 45 Mins		BR		
97164		Physical Therapy Re-Eval Est Plan Care 20 Mins		BR		
97165		Occupational Therapy Eval Low Complex 30 Mins		BR		
97166		Occupational Therapy Eval Mod Complex 45 Mins		BR		
97167		Occupational Therapy Eval High Complex 60 Mins		BR		
97168		Occupational Ther Re-Eval Est Plan Care 30 Mins		BR		
***						
98970		Qnhp Ol Digital Assmt&Mgmt Est Pt <7 D 5-10 Min		\$25		
98971		Qnhp Ol Digital Assmt&Mgmt Est Pt <7 D 11-20 Min		\$65		
98972		Qnhp Ol Digital Assmt&Mgmt Est Pt <7 D 21+ Min		\$150		
***						
99421		Online Digital E/M Svc Est Pt <7 D 5-10 Minutes			\$31	\$27
99422		Online Digital E/M Svc Est Pt <7 D 11-20 Minutes			\$62	\$55
99423		Online Digital E/M Svc Est Pt <7 D 21+			\$100	\$87

CPT Code	Mod	Description	Global Days	Maximum Allowance	Non-Facility Maximum	Facility Maximum
		Minutes				
* * *						
99495		Transitional Care Manage Srvc 14 Day Discharge		BR		
99496		Transitional Care Manage Srvc 7 Day Discharge		BR		
* * *						

C. Table 3

Code	Mod	Description	Global Days	Maximum Allowance	Non-Facility Maximum	Facility Maximum
C9803		Covid-19 Specimen Collection Hopd		BR		
G2010		Remot Image Submit By PT		\$24		
G2012		Brief Check In By Md/Qhp		\$27		
G2023		Specimen Collect Covid-19		\$47		
G2024		Spec Coll Snf/Lab Covid-19		\$51		
G2061		Qual Nonmd Est Pt 5-10m		\$25		
G2062		Qual Nonmd Est Pt 11-20m		\$43		
G206		Qual Nonmd		\$68		

3		Est Pt 21>Min				
U0001		2019-Ncov Diagnostic P			\$72	
U0002		Covid-19 Lab Test Non-Cdc			\$103	
U0003		Sars-Cov-2 Covid-19 Amp Prb Htt			\$200	
U0004		Covid-19 Lab Test Non-Cdc Htt			\$200	

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1034.2.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 19:54 (January 1993), repromulgated LR 19:212 (February 1993), amended LR 20:1299 (November 1994), LR 27:314 (March 2001), amended by the Workforce Commission, Office of Workers' Compensation Administration, LR 39:1854 (July 2013), LR 40:379 (February 2014), amended by the Workforce Commission, Office of Workers' Compensation Administration, LR 42:1696 (October 2016). amended by the Louisiana Workforce Commission Administration, Office of Workers' Compensation Administration, LR 46:

Inquiries concerning the proposed enactment may be sent to Assistant Secretary Sheral Kellar, OWC-Administration, 1001 North 23rd Street, Baton Rouge, LA 70802 or at [MedicalServices@lwc.la.gov](mailto:MedicalServices@lwc.la.gov).

Ava Dejoie  
Secretary

2005#002

# Rules

## RULE

### Department of Civil Service Board of Tax Appeals

Procedure and Practice  
(LAC 69:I.Chapter 3, 501, 701, 903, 909 and 1101)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 47:1413, the Department of Civil Service, Board of Tax Appeals, has amended the Title 69, part I to: provide for the adoption of an electronic filing system; clarify the captioning of pleadings in state tax cases; timely filing of pleadings; service of pleadings and other documents; hearings on state cases; filing of memoranda and briefs; circulation of proposed judgments; procedures for appeals; timely payment of appeal costs; the filing of pleadings and memoranda in local cases; the presentation or waiver of defenses; the transmittal of invoices for filing fees and the recovery thereof by the Office of Debt Recovery; and board operations. This Rule is hereby adopted on the day of promulgation.

#### Title 69

#### TAX APPEALS (REVENUE DEPARTMENT AND LOCAL SALES TAX DISPUTES)

#### Part I. Procedure and Practice before the Louisiana Board of Tax Appeals

#### Chapter 3. Rules Relating to Tax Matters

#### §301. Pleadings in General

A. Except as provided for in the rules related to electronic filing, an original and six conformed copies of all pleadings and memoranda shall be filed with the board in a state case (for local cases see §1101).

B. - D. ...

E. All pleadings in state cases shall have a caption substantively similar to the following:

**BOARD OF TAX APPEALS  
STATE OF LOUISIANA**

.....  
Petitioner  
VS.  
Department of Revenue  
Respondent

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1413.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Tax Appeals, LR 41:1080 (June 2015), amended LR 46:785 (June 2020).

#### §309. The Answer

A. - B. ...

C. If no responsive pleading is timely filed, any party may file a motion to compel the filing of responsive pleadings. Any order mandating the filing of a responsive pleading may provide that default judgment may be rendered against any party who fails to comply with such order within

the deadline stated in the order. A case may be set for a trial on the merits following the filing of an answer or following a status conference with the parties. No party, without leave of the board, may present a defense at trial if that party's answer has not been filed with the board and transmitted to the petitioner at least 15 days prior to trial or if it is otherwise untimely under the applicable deadline in the case's scheduling order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1413.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Tax Appeals, LR 41:1081 (June 2015), amended LR 46:785 (June 2020).

#### §313. Service

A. All pleadings or documents filed which are required to be served on the opposing party may be served by first class U.S. mail, or registered (or certified) mail with return receipt. A certificate of such service in accordance with §301 shall be filed concurrently with the filing of such pleadings or documents. Service may also be accomplished in accordance with any provision of the Code of Civil Procedure, or other applicable law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1413.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Tax Appeals, LR 41:1081 (June 2015), amended LR 46:785 (June 2020).

#### §317. Hearings

A. The board will hold hearings on state cases no less than two days per month on dates set by the board. The hearings will be held at the board's office in Baton Rouge, Louisiana or such other place designated by the board.

B. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1413.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Tax Appeals, LR 41:1081 (June 2015), amended LR 46:785 (June 2020).

#### §321. Memoranda

A. A memoranda or other brief is due on the date set by the board by via minute entry in open hearing or by order. In the event that no deadline is set by the board, the parties shall comply with the deadlines provided for in Rule 9.9 of the Louisiana Uniform Rules of Districts Courts.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1413.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Tax Appeals, LR 41:1082 (June 2015), amended LR 46:785 (June 2020).

#### §323. Computation of Time

A. Computation of the delays provided herein shall be as provided in LSA-C.C.P article 5059(A) and (B). A petition shall be deemed timely if filed with the board in the same manner and pursuant to the same provisions as those specified in section 5(d) of article X of the rules of the Louisiana Supreme Court or if fax filed in strict compliance with §303, or if electronically filed in accordance with Chapter 5 of this Part.

B. Therefore, a pleading properly mailed shall be deemed timely filed if mailed on or before the last day of the delay for filing. If the mailing is received by mail on the first legal day following the expiration of the delay, there shall be a rebuttable presumption that it was timely filed. In all cases where the presumption does not apply, the timeliness of the mailing shall be shown only by an official United States postmark or cancellation stamp or by official receipt or certificate of mailing from the United States Postal Service, or bonafide commercial mail services such as Federal Express or United Parcel Service, made at the time of mailing which indicates the date thereof. Any other date stamp, such as a private commercial mail meter stamp, or label from an automated postal center, shall not be used to establish timeliness.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1413.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Tax Appeals, LR 41:1082 (June 2015), amended LR 46:785 (June 2020).

### §325. Judgments

A. Copies of proposed judgments will be mailed or transmitted by facsimile or by previously utilized email address to all parties by the party submitting the judgment.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1413.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Tax Appeals, LR 41:1082 (June 2015), amended LR 46:786 (June 2020).

### §327. Review of Decisions or Judgments of the Board

A. ...

B. Any appeal shall be taken in accordance with the law and any applicable court of appeal or Supreme Court rules.

C. ...

D. A return date on an appeal will not be set until the appellant has advanced the estimated costs due pursuant to C.C.P. art. 2126. The failure to pay any appeal costs due may result in the dismissal of the appeal in accordance with the provisions of the Code of Civil Procedure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1413.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Tax Appeals, LR 41:1082 (June 2015), amended LR 46:786 (June 2020).

### §329. Filing Fees, Fees and Mileage of Witnesses

A. - A.4.f. ...

g. request to approve appeal bond or other security—\$300, but not less than: \$1 per each \$1,000 of security for review of a commercial surety bond, \$3 per each \$1000 of security for review of an irrevocable letter of credit, or \$1 per each \$100 of security for any other authorized means of security, provided that the total cost for approving and accepting a deposit into the registry of the board escrow account shall be set at \$300;

h. ...

i. motion for a new trial, for an amended judgment, for reconsideration of a judgment, or motion for review by the appellate court pursuant to R.S. 47:1434—\$165;

j. ...

5. Any collector who files as a petitioner shall pay any amounts payable by a taxpayer in a local tax case, provided that the initial filing fee in any case filed pursuant to R.S.

47:337.101 shall be \$300. He shall also pay any applicable costs of service in all cases.

6. ...

7. Any motion, rule, or proposed order seeking to set, re-set, or continue a hearing on any contradictory rule, motion or exception, and all motions to fix, re-fix, or continue a case for trial on the merits shall be accompanied by a filing fee of \$165 plus \$25 per additional service requested. Unless otherwise stated in the case scheduling order, this fee shall not apply in any case filed against a state collector, unless the motion was untimely pursuant to the outstanding scheduling order.

8. - 9. ...

10. The board may provide by standing order that the filing fees pursuant to §329 of this Part. A shall be deemed an advance cost deposit, to be deposited into the board's escrow account and logged into the registry of the board. This deposit shall be considered assessed as a cost against the original petitioner upon the rendering of a judgment in the case, and any filing fees in state cases shall be then be considered self-generated revenue of the board and transferred from the board escrow Account to be deposited as filing fees pursuant to applicable law. If the judgment resolving a case instead taxes the depositing petitioner(s)' costs to another party, then the funds shall be refunded to the depositing petitioner from the board escrow account in accordance with the applicable judgment and following collection by the board of the applicable costs from the party against whom they were taxed.

B. - C.1. ...

2. Notwithstanding any other provision of this Paragraph, the board may also transmit by regular mail an invoice providing that non-payment will result in collection by the office of debt recovery pursuant to applicable law, and may also provide that failure to pay within 45 days of the written notice may result in dismissal of the pleading giving rise to the fee due.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1413.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Tax Appeals, LR 41:1082 (June 2015), amended LR 46:786 (June 2020).

## Chapter 5. Electronic Filing

### §501. Electronic Filing System Approval

A. Persons authorized to practice before the board under §101 of this Part may register to electronically file documents as provided herein.

B. *Registered user* means persons authorized to practice before the board under §101 of this Part who have registered a username and password with the board's electronic filing system (the e-file system maintained by the Louisiana Clerks' Remote Access Authority unless otherwise provided by standing order of the board) who has completed any required training.

C. A registered user is responsible for all documents filed, and any fees or costs incurred in doing so, whether or not the registered user performs the physical act of filing such documents.

D. An electronically filed document has the same legal effect as a conventionally filed document.

E. The electronic filing of a document does not relieve the registered user of any legal duty to serve copies on parties as required by order, rule or statute.

F. An electronically filed document must not contain a virus, malware, encryption, public key infrastructure, password or any other type of rights management when uploaded.

G. The secretary clerk, or her designee, may reject an electronically filed document for nonconformance with this Rule or any other rule in this Part.

H. The registered user's username and password constitute the registered user's signature on an electronically filed document. The registered user must also include the notation, "/s/", and the registered user's name in the space where the registered user's signature would otherwise appear on the electronically filed document.

I. Signature(s) on an electronically filed document shall have the same legal effect as any signature(s) on a conventionally filed document.

J. Documents may be electronically filed at any time and shall be deemed filed with the Board at the date and time of the electronic filing. However, documents electronically filed after 4 P.M. Central Time will be processed beginning at 9 A.M. Central Time on the next day of business.

K. An electronically filed document will be considered timely filed if electronic filing is fully completed at any time before 12, midnight central time on or before the date on which the document is due unless another specific time is mandated by order, rule or statute.

L. If an electronically filed document has been rejected by the secretary clerk, the registered user will have seven calendar days from the date of transmission by the secretary clerk, or her designee, to the registered user of the electronically mailed notification of the rejection to re-file the document(s) either electronically or conventionally.

M. A properly re-filed document will retain the date and time of its original electronic filing.

N. The board shall by standing order fix the monthly, daily, and/or per page subscription costs of the electronic filing service and/or electronic records viewing service.

O. The board may elect to participate in the Louisiana Clerks' of Court Remote Access Authority uniform filing system, and may issue a standing order to effectuate such filing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1413.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Tax Appeals, LR 41:1083 (June 2015), amended LR 46:786 (June 2020)

## **Chapter 7. Claims against the State**

### **§701. Petition**

A. ...

\*\*\*

B. Petition for claim against the State under R.S. 47:1413:

1. proper allegations showing jurisdiction in the board;

2. clear and concise statement of the nature and the amount of the claim;

a. a prayer, setting forth the relief sought by the petitioner;

b. the signature of the petitioner or that of his counsel. The signature of the counsel shall be in individual and not as a firm name. The name and mailing address of the

petitioner or of counsel shall be typed or printed immediately following the signature;

c. a verification of the petitioner, a partner, or a bona fide officer of the corporation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1413.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Tax Appeals, LR 41:1083 (June 2015), amended LR 46:787 (June 2020).

### **§707. Alternative Filing Option**

A. A claim against the state pursuant to R.S. 47:1481 for taxes erroneously paid may additionally be filed with the secretary of the Department of Revenue on forms prescribed by the secretary pursuant to the provisions of R.S. 47:1481(B)(3). The date of any such filing with the department shall be deemed the date of filing of the claim with the board. This is an optional procedure, and does not restrict any right to file directly with the board.

B. If a claim filed with the department is agreed with by the department, then it shall submit to the board a proposed consent judgment attached with the submitted claim. Any consent judgment will include a signed stipulation by the secretary, or the secretary's designee, of the applicable facts and law upon which they relied in consenting to the claim.

#### **C. Rejection of a Claim**

1. If the department does not agree with a claim filed with the department then it shall send a notice of denial to the claimant by certified mail at the address provided in the claim detailing its reasons for denial, and notifying the claimant that it has 60 days from the mailing of that notice to file its claim with the board.

2. If a claimant fails to file its claim with the board in accordance with §701 within 60 days of notice of denial by the department, then the department may file a motion of dismissal. The board shall transmit a notice by regular mail to the claimant of any hearing set on a motion for dismissal pursuant to this provision, and the motion shall be granted if the claimant fails to properly file its claim in accordance with §701 prior to the date set for hearing of the motion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1413.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Tax Appeals, LR 46:787 (June 2020).

## **Chapter 9. Board Operations**

### **§903. Board Chairman**

A. The Chairman shall serve as the chief administrative officer of the Board, and except as otherwise provided by law or rule, or as otherwise directed by a majority vote of the Board, he shall supervise its regular operations.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1413.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Tax Appeals, LR 41:1083 (June 2015), amended LR 46:787 (June 2020).

### **§905. Board Vice-Chairman**

A. - B. ...

C. A majority of the board, or the chairman may, delegate other responsibilities and duties to the vice-chairman.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1413.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Tax Appeals, LR 41:1083 (June 2015), amended LR 46:787 (June 2020).

### **§909. Employees**

A. Except as otherwise directed by a majority of BTA members after due notice, the job title, classification and pay of any employee whose position was in the classified service prior to the effective date La. Const. art. V. Sec. 35 shall follow the procedures and rules applicable in the state's classified service, including the provisions concerning annual pay adjustments. A majority of BTA members may overturn any action related to the dismissal or suspension of an employee of the administrative program covered by the provisions of this section. Any pay adjustments for employees in the administrative program shall be subject to approval by a majority of BTA members.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1413.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Tax Appeals, LR 46:788 (June 2020).

## **Chapter 11. Local Tax Division**

### **§1101. General Provisions**

A. The procedural rules of the board are hereby made applicable to the Local Tax Division, but may be varied by standing order of the local tax judge and shall be subject to the provisions of R.S. 47:1403 concerning the authority of the local tax judge over all cases assigned to it by law.

B. ...

C. For the purposes of a case in the local tax division, only three conformed copies of all pleadings and memoranda shall be required to be filed, together with the original, plus copies for any additional service requested.

D. ...

E. As provided in R.S. 47:1403(A)(3), the local tax judge shall exercise all jurisdiction, authority, and powers of the board and its chairman as related to the local tax division, with supervision and control of all matters related to the local tax division. The local tax judge shall be the appointing authority of the local tax division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1413.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Tax Appeals, LR 41:1084 (June 2015), amended LR 46:788 (June 2020).

Judge Anthony J. "Tony" Graphia  
Chairman

2006#022

## **RULE**

### **Board of Elementary and Secondary Education**

Bulletin 126—Charter Schools—Charter School Renewals  
and Virtual Charter School Attendance  
(LAC 28:CXXXIX.1505 and 3709)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 17:6(A)(10), the Board of Elementary and Secondary Education has amended LAC 28:CXXXIX (Bulletin 126). Amendments in §1505 clarify renewal criteria for BESE-authorized charter schools and

ensure that the state superintendent of education considers student performance and/or growth data of neighboring and comparable schools when making a recommendation. Additionally, amendments in §3709 outline student attendance policy requirements for state-authorized virtual charter schools, in accordance with Act 398 of the 2019 Regular Legislative Session. This Rule is hereby adopted on the day of promulgation.

## **Title 28 EDUCATION**

### **Part CXXXIX. Bulletin 126—Charter Schools**

#### **Chapter 15. Charter Renewal**

#### **§1505. Eligibility for Renewal of BESE-Authorized Charter Schools (Formerly §1503.B)**

A. - B.2.b.i. ...

C. When a charter school does not meet the criteria for renewal in the initial or subsequent charter term, BESE may renew the charter based upon the recommendation of the state superintendent. Such renewal may include conditions to be incorporated in the charter school contract and may require the charter operator to phase out operation of the school over the course of the renewal term. Prior to recommending such renewal, the following must be considered:

1. nonrenewal may require students to attend lower-performing schools;
2. available academic data, including student performance data and/or student growth data of neighboring and comparable schools, has been reviewed; and
3. efforts to find a new, high-quality operator for the charter school have failed.

D. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), 17:3981, and 17:3992.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:479 (March 2010), amended LR 37:871 (March 2011), LR 37:2388 (August 2011), LR 38:752 (March 2012), repromulgated LR 38:1394 (June 2012), amended LR 38:3119 (December 2012), LR 39:1436 (June 2013), LR 39:3066 (November 2013), LR 40:1323 (July 2014), LR 41:1264 (July 2015), LR 44:238 (February 2018), LR 46:788 (June 2020).

#### **Chapter 37. Virtual Charter Schools**

#### **§3709. Virtual Charter School Attendance**

A. State-authorized virtual charter schools are required to enforce student attendance and address cases of student truancy and unexcused absences.

B. Virtual charter school operators must annually submit attendance policies to the department for approval to ensure compliance with applicable laws and regulations. The state superintendent will set forth the process for attendance policy submission.

C. Attendance policies for virtual schools must include:

1. a definition of the method in which attendance is measured for students enrolled at the school including, but not limited to, minimum expectations regarding active class participation, time spent connected online, and/or completion and submission of assignments;
2. a plan regarding the method in which student attendance will be recorded and enforced; and
3. a plan for providing orientation including the school attendance policy to enrolled students and parents or

legal custodians, with such orientation occurring upon enrollment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) and 17:233.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 46:788 (June 2020).

Shan N. Davis  
Executive Director

2006#020

## RULE

### Department of Environmental Quality Office of the Secretary Legal Affairs and Criminal Investigations Division

#### LPDES Application and Program Requirements (LAC 33:IX.2501, 2707, 3113, and 3705)(WQ104)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Water Quality regulations, LAC 33:IX.2501, 2707, 3113, 3705 (WQ104).

The purpose of this Rule is to provide revisions to the Louisiana Pollutant Elimination System (LPDES) permitting regulations. Federal Regulations, which became effective June 12, 2019, were updated to promote submission of complete permit applications and clarify regulatory requirements. The basis and rationale for this Rule are to mirror existing federal regulations found at 40 CFR 122.21, 122.44, and 125.3. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This Rule is hereby adopted on the day of promulgation.

### Title 33

## ENVIRONMENTAL QUALITY

### Part IX. Water Quality

#### Subpart 2. The Louisiana Pollutant Discharge

#### Elimination System (LPDES) Program

### Chapter 25. Permit Application Requirements and Special LPDES Program Requirements

#### §2501. Application for a Permit

A. - C.1.c.i. ...

ii. the applicant's name, address, telephone number, email address, and ownership status;

C.1.c.iii. - E.2. ...

F. Information Requirements. All applicants for LPDES permits, other than permits for POTWs and other TWTDS, must provide the information in Paragraphs F.1-11 of this Section to the Office of Environmental Services using the application form provided by the state administrative authority (additional information required of applicants is set forth in subsections G-K and Q-R of this section and LAC 33:I.1701):

1. - 2. ...

3. up to four SIC codes and up to four NAICS codes which best reflect the principal products or services provided by the facility;

4. the operator's name, address, telephone number, email address, ownership status, and status as federal, state, private, public, or other entity;

5. - 7. ...

8. a brief description of the nature of the business;

9. additional application requirements in LAC 33:IX.6505.A and LAC 33:I.1701;

10. an indication of whether the facility uses cooling water and the source of the cooling water; and

11. an indication of whether the facility is requesting any of the variances at LAC 33:IX.2501.L.

G. - G.7.h.ii. ...

i. where quantitative data are required in Subparagraphs G.7.a-h of this Section, existing data may be used, if available, in lieu of sampling done solely for the purpose of the application, provided that:

i. all data requirements are met;

ii. sampling was performed, collected, and analyzed no more than four and one-half years prior to submission;

iii. all data are representative of the discharge; and

iv. all available representative data are considered in the values reported.

G.8. - J.1.a. ...

b. Applicant Information. Name, mailing address, telephone number, and email address of the applicant, and indication as to whether the applicant is the facility's owner, operator, or both.

c. - h.iv.(a). ...

(b). the name, mailing address, contact person, phone number, and email address of the organization transporting the discharge, if the transport is provided by a party other than the applicant;

(c). the name, mailing address, contact person, phone number, email address, and LPDES permit number (if any) of the receiving facility; and

J.1.h.iv.(d). - J.1.h.v.(c). ...

i. An indication of whether the facility is requesting any of the variances at LAC 33:IX.2501.M.

2. - 4. ...

a. As provided in Subparagraphs J.4.b-j of this Section, all applicants must submit to the Office of Environmental Services effluent monitoring information for samples taken from each outfall through which effluent is discharged to waters of the state. The state administrative authority may allow applicants to submit sampling data for only one outfall on a case-by-case basis, where the applicant has two or more outfalls with substantially identical effluent. The state administrative authority may also allow applicants to composite samples from one or more outfalls that discharge into the same mixing zone. For POTWs applying prior to commencement of discharge, data shall be submitted no later than 24 months after the commencement of discharge.

4.b. - 5. ...

a. All applicants must provide an identification of any whole effluent toxicity tests conducted during the four and one-half years prior to the date of the application on any of the applicant's discharge or on any receiving water near

the discharge. For POTWs applying prior to commencement of discharge, data shall be submitted no later than 24 months after the commencement of discharge.

5.b. - 6. ...

a. number of significant industrial users (SIUs) and nonsignificant categorical industrial users (NSCIUs), as defined at LAC 33:IX.6105, including SIUs and NSCIUs that truck or haul waste discharging to the POTW;

6.b. - 8. ...

9. Contractors. All applicants must provide the name, mailing address, telephone number, email address, and responsibilities of all contractors responsible for any operational or maintenance aspects of the facility.

J.10. - K.5.e. ...

f. No later than 24 months after the commencement of discharge from the proposed facility, the applicant is required to provide effluent characteristics (see LAC 33:IX.2501.G.7). However, the applicant need not complete those portions of LAC 33:IX.2501.G.7 requiring tests which have already been performed and reported under the discharge monitoring requirements of the LPDES permit.

K.6. - Q.2. ...

a. the name, mailing address, telephone number, and email address of the applicant; and

2.b. - 8.f. ...

i. the name, mailing address, and email of the receiving facility;

8.f.ii. - 9.c.iii. ...

iv. the name, mailing address, telephone number, and email address of the site owner, if different from the applicant;

v. the name, mailing address, telephone number, and email address of the person who applies sewage sludge to the site, if different from the applicant;

c.vi. - d. ...

i. whether the applicant has contacted the permitting authority in the state where the bulk sewage sludge subject to 40 CFR 503.13(b)(2) will be applied, to ascertain whether bulk sewage sludge subject to 40 CFR 503.13(b)(2) has been applied to the site on or since July 20, 1993, and if so, the name of the permitting authority and the name, phone number, and email address (if available) of a contact person at the permitting authority; and

9.d.ii. - 10.b. ...

i. the site name or number, contact person, mailing address, telephone number, and email address for the surface disposal site; and

b.ii. - c.xi. ...

(a). the name, contact person, mailing address, and email address of the facility; and

10.c.xi.(b). - 11.b. ...

i. the name and/or number, contact person, mailing address, telephone number, and email address of the sewage sludge incinerator; and

11.b.ii. - 12. ...

a. the name, contact person, mailing address, email address, location, and all applicable permit numbers of the MSWLF;

b. - d. ...

13. Contractors. All applicants must provide the name, mailing address, telephone number, email address, and responsibilities of all contractors responsible for any

operational or maintenance aspects of the facility related to sewage sludge generation, treatment, use, or disposal.

Q.14. - R.5.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:723 (June 1997), amended by the Office of the Secretary, LR 25:661 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2552 (November 2000), LR 26:2756 (December 2000), LR 27:45 (January 2001), LR 28:465 (March 2002), LR 28:1766 (August 2002), LR 29:1462 (August 2003), repromulgated LR 30:230 (February 2004), amended by the Office of Environmental Assessment, LR 30:2028 (September 2004), LR 31:425 (February 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2509 (October 2005), LR 32:819 (May 2006), LR 33:2069, 2165 (October 2007), LR 33:2360 (November 2007), LR 35:648 (April 2009), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 46:789 (June 2020).

## Chapter 27. LPDES Permit Conditions

### §2707. Establishing Limitations, Standards, and Other Permit Conditions

A.1. - K.3. ...

4. the practices are reasonably necessary to achieve effluent limitations and standards or to carry out the purposes and intent of the CWA and the LEQA.

NOTE: Additional technical information on BMPs and the elements of BMPs is contained in the following documents: Guidance Manual for Developing Best Management Practices (BMPs), October 1993, EPA No. 833/B-93-004, NTIS No. PB 94-178324, ERIC No. W498; Storm Water Management for Construction Activities: Developing Pollution Prevention Plans and Best Management Practices, September 1992, EPA No. 832/R-92-005, NTIS No. PB 92-235951, ERIC No. N482; Storm Water Management for Construction Activities, Developing Pollution Prevention Plans and Best Management Practices: Summary Guidance, EPA No. 833/R-92-001, NTIS No. PB 93-223550, ERIC No. W139; Storm Water Management for Industrial Activities; Developing Pollution Prevention Plans and Best Management Practices, September 1992; EPA No. 832/R-92-006, NTIS No. PB 92-235969, ERIC No. N477; Storm Water Management for Industrial Activities, Developing Pollution Prevention Plans and Best Management Practices: Summary Guidance, EPA No. 833/R-92-002, NTIS No. PB 94-133782, ERIC No. W492. These and other EPA guidance documents can be obtained through the National Service Center for Environmental Publications (NSCEP) at the NSCEP website. In addition, states may have BMP guidance documents. These EPA guidance documents are listed here only for informational purposes; they are not binding and EPA does not intend that these guidance documents have any mandatory, regulatory effect by virtue of their listing in this note.

L. - S. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:724 (June 1997), LR 23:1523 (November 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2282 (October 2000), LR 26:2764 (December 2000), LR 28:469 (March 2002), LR 28:1767 (August 2002), repromulgated LR 30:230 (February 2004), amended by the Office of Environmental Assessment, LR 31:426 (February 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2070 (October 2007), LR 34:74 (January 2008), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 46:790 (June 2020).

**Chapter 31. General LPDES Program Requirements**

**§3113. Public Notice of Permit Actions and Public**

**Comment Period**

A. - C.1.j.ii. ...

2. for LPDES individual permits, LPDES general permits, and permits that include sewage sludge land application plans under 40 CFR 501.15(a)(2)(ix), publication of a notice in a daily or weekly newspaper within the area affected by the facility or activity; and for EPA-issued NPDES general permits, in the *Federal Register*;

NOTE: The state administrative authority is encouraged to provide as much notice as possible of the LPDES draft general permit to the facilities or activities to be covered by the general permit.

a. for LPDES individual permits and LPDES master general permits, in lieu of the requirement for publication of a notice in a daily or weekly newspaper, as described in Paragraph 2 of this Section, the director may publish all notices of activities as described in LAC 33:IX.3113.A.1 to the permitting authority's public website. If the director selects this option for the draft permit, as defined in LAC 33:IX.3101, the director must post the draft permit and fact sheet on the website for the duration of the public comment period.

NOTE: The director is encouraged to ensure that all method(s) of public notice effectively informs all interested communities and allows access to the permitting process for those seeking to participate.

C.3. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Water Pollution Control Division, LR 23:725 (June 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2554 (November 2000), LR 28:473 (March 2002), LR 28:1767 (August 2002), repromulgated LR 30:231 (February 2004), amended by the Office of Environmental Assessment, LR 31:426 (February 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2070 (October 2007), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 46:791 (June 2020).

**Chapter 37. Criteria and Standards for Technology – Based Treatment Requirements under Sections 301(b) and 402 of the Act**

**§3705. Technology—Based Treatment Requirements in Permits**

A. - A.1.a. ...

b. Reserved.

A.2. - H.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), repromulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 30:231 (February 2004), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 46:791 (June 2020).

Herman Robinson  
General Counsel

2006#019

**RULE**

**Department of Health  
Board of Social Work Examiners**

**LMSWs Seeking the LCSW Credential  
(LAC 46:XXV.503)**

The Board of Social Work Examiners has amended §503, LMSWs Seeking the LCSW Credential under the authority granted by R.S. 37:2705(C)(1). These amendments apply to all licensed master's social workers under supervision for licensing and licensed clinical social workers-board approved clinical supervisors providing such supervision and amend §503, LMSWs Seeking the LCSW Credential. This Rule is hereby adopted on the day of promulgation.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part XXV. Credentialed Social Workers**

**Chapter 5. Minimum Supervision Requirements**

**§503. LMSWs Seeking the LCSW Credential**

A. Supervision for the LCSW license can begin after the MSW obtains LMSW. Supervision shall be documented on the forms provided by the board.

B. Supervision for the LCSW license is conducted by a board-approved clinical supervisor (BACS). LMSWs may obtain a list of BACS from the board's website or office.

C. The supervision contract shall be completed by the supervisor, the supervisee, and the agency supervisor and shall be submitted to the Board office by the supervisee within 60 days of the first supervision session. The employment verification shall be completed by the employer and shall be submitted by the supervisee along with the supervision contract. Failure to do so shall result in supervision being issued from the date that is 60 days from the date received. A new supervision contract shall be submitted by the supervisee within 60 days of the change when the supervisee changes employment, changes supervisor and/or there is a change in the agency supervisor. If there is a change in employment, the supervisee must also submit a new employment verification. The board office will email the supervisee and supervisor a notice confirming receipt of the supervision contract and the beginning date of supervision, within 60 days of receipt of the contract.

D. LMSWs seeking the LCSW credential must complete a minimum of 5,760 hours of postgraduate social work practice and at least 3,840 hours of that postgraduate social work practice must be under the supervision of a board-approved clinical supervisor (BACS).

E. During the 3,840 hours of supervised practice, 96 hours of face-to-face supervision must occur between the supervisor and supervisee. Supervisory meetings must last no fewer than 30 minutes and no longer than 2 hours. In no case should more than 80 hours of practice occur without a supervisory meeting. Supervision credit shall not be issued for the time-period that this requirement is not met.

F. One-half (48 hours' maximum) of the supervision requirement may be met through group supervision, occurring in increments of no more than two hours per

group. No more than five supervisees may participate in a supervision group. In some cases, it may be beneficial to increase the number of group supervision hours. To obtain approval for up to 72 hours of group supervision, the supervisor must submit a written request to the board indicating the rationale for the increase. The board shall consider the request at a regularly scheduled board meeting and notify the supervisor of its decision within 30 business days.

G. School social workers shall count hours of postgraduate social work practice and supervision that occurs when they are employed in a social work position.

H. Occasionally, a need may arise for supervision to occur using electronic communication rather than on a face-to-face basis. The board may consider alternatives to face-to-face supervision if the applicant can demonstrate an undue burden due to hardship, disability or travel time. All situations of remoted supervision must be approved by the board. To receive approval, the supervisee should submit a written request containing specific details to the board. The board shall consider the request at a regularly scheduled Board meeting and notify the supervisor of its decision within 30 business days. If approved, the supervisor and supervisee agree to use secure technology that provided real-time, visual contact among the individuals involved, and adheres to the confidential nature of the supervisory process.

I. The supervisee and supervisor shall keep accurate records of both the dates of supervision sessions and the time spent in supervision, as well as brief information on the content of the supervisory session. Both the supervisor and supervisee will sign for each supervisory session. This information shall be provided on the form entitled record of supervision and should be maintained by the supervisee. Upon completion of supervision, this form shall be submitted to the board office. The board may also choose to randomly audit the record of supervision form to verify that supervision occurred in accordance with §503. If irregularities are found, supervision credit shall be reduced to reflect actual supervised time.

J. The supervisor shall also keep a supervision folder and it shall include the following:

1. copy of the supervision contract;
2. narrative of all supervisory sessions, including overview of cases discussed, significant decisions made; any ethical concerns; significant problems arising in supervision, and how they were resolved;
3. copies of memos and correspondence;
4. copy of evaluation of supervision form;
5. copies of the record of supervision.

K. The supervisor has a professional responsibility to honor his/her commitment to supervise responsibly, which includes covering content as indicated in the supervision contract, maintaining accurate records, making themselves available to the supervisee for required sessions and other consultations, and submitting forms on a timely basis. Should the supervisor fail to submit forms appropriately, and on a timely basis, the board reserves the right to withdraw the BACS designation from the supervisor.

L.1. The supervisee shall provide to the board office the following documents at the end of the supervisory period:

- a. evaluation of supervision;
- b. record of supervision.

2. The board office does not confirm receipt of these forms. These forms will be reviewed once an application for LCSW is filed by the LMSW.

M. An evaluation of supervision form shall be submitted to the board office at the completion of that supervisor's supervisory period. Sometimes it is necessary for a supervisor to discontinue supervising a LMSW for licensure. When this occurs, no matter what length of time the supervisor actually supervised the supervisee, the supervisor must submit an Evaluation of Supervision form.

N. The professional experience verification record shall be submitted by the supervisee to the board office from each place of employment to verify dates employed and the hours of social work practice completed during the time employed. The professional experience verification record shall be completed by the employer(s).

O. If the LMSW receives supervision outside of the state of Louisiana, that supervision will be accepted if:

1. the supervisor has completed the authorized forms of the Louisiana State Board of Social Work Examiners; and
2. the supervisor is licensed at the time of supervision at a level substantially equivalent to a LCSW-BACS in the other state and submits the license verification of out of state supervisor form (available from board office).

The board's publication, Supervision for Professional Development and Public Protection: A Guide, provides more information relative to supervision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705(C).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:307 (February 2000), amended LR 29:2387 (November 2003), LR 34:1402 (July 2008), LR 37:2620 (September 2011), amended by the Department of Health and Hospitals, Board of Social Work Examiners, LR 40:306 (February 2014), amended by the Department of Health, Board of Social Work Examiners, LR 43:960 (May 2017), LR 46:791 (June 2020).

Emily DeAngelo  
Administrator

2006#005

## RULE

### Department of Health Board of Pharmacy

#### Drug Disposal by Pharmacies (LAC 46:LIII.1503, 1519, 2503, 2517, 2701, and 2749)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy hereby has amended several sections of its rules to authorize pharmacies to accept returns of previously dispensed drugs for disposal, and to establish standards for the destruction of certain types of drugs. The amendment of §1503 is a technical amendment. The amendment of §1519 permits a hospital pharmacy to accept drug returns for disposal, and further, requires compliance with certain

federal standards for the disposal of controlled substances and for hazardous drugs. The amendment of §2503 applies the same requirements to all other types of pharmacies. The amendment of §2517 inserts the same set of requirement in this section for the dispensing of prescription drugs. The amendment of §2701 is a technical amendment. The amendment of §2749 specifies the disposal standards for controlled substances. This Rule is hereby adopted upon promulgation.

**Title 46**  
**PROFESSIONAL AND OCCUPATIONAL**  
**STANDARDS**

**Part LIII. Pharmacists**

**§1503. Definitions**

A. As used in this Chapter, the following terms shall have the meaning ascribed to them in this Section:

*CFR*—Code of Federal Regulations

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2093 (October 2003), effective January 1, 2004, amended LR 33:1132 (June 2007), amended LR 39:1282 (May 2013), amended LR 40:2256 (November 2014), effective January 1, 2015, amended LR 41:2147 (October 2015), amended by the Department of Health, Board of Pharmacy, LR 46:793 (June 2020).

**§1519. Drug Returns; Drug Disposal**

A. In a hospital with a permitted hospital pharmacy on site, unused drugs may be returned to the pharmacy for re-dispensing in accordance with good professional practice standards.

B. When a patient or his designee wishes to return previously dispensed prescription drugs to a pharmacy for disposal, the pharmacy shall inform the patient or his designee of the disposal mechanisms available to him. In the event the pharmacy elects to accept such previously dispensed products for disposal, the pharmacy shall comply with the following requirements.

1. From the time of receipt of such products until the time of disposal, the pharmacy shall quarantine such products to keep them separate from its active dispensing stock and shall take appropriate security measures to prevent the theft or diversion of such products.

2. The pharmacy shall comply with the provisions of 21 CFR §1317 or its successor for the pharmacy's disposal of controlled substances and other non-hazardous waste pharmaceuticals.

3. The pharmacy shall comply with the provisions of 40 CFR §261 or its successor for the pharmacy's disposal of hazardous waste pharmaceuticals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 29:2094 (October 2003), effective January 1, 2004, amended by the Department of Health, Board of Pharmacy, LR 46:793 (June 2020).

**Chapter 25. Prescriptions, Drugs, and Devices**

**Subchapter A. General Requirements**

**§2503. Drug Returns; Drug Disposal**

A. Unless otherwise allowed by law, drugs dispensed on prescription to a patient shall not be accepted for return, exchange, or re-dispensing by any pharmacist or pharmacy

after such drugs have been removed from the pharmacy premises where they were dispensed.

B. When a patient or his designee wishes to return previously dispensed prescription drugs to a pharmacy for disposal, the pharmacy shall inform the patient or his designee of the disposal mechanisms available to him. In the event the pharmacy elects to accept such previously dispensed products for disposal, the pharmacy shall comply with the following requirements.

1. From the time of receipt of such products until the time of disposal, the pharmacy shall quarantine such products to keep them separate from its active dispensing stock and shall take appropriate security measures to prevent the theft or diversion of such products.

2. The pharmacy shall comply with the provisions of 21 CFR §1317 or its successor for the pharmacy's disposal of controlled substances and other non-hazardous waste pharmaceuticals.

3. The pharmacy shall comply with the provisions of 40 CFR §261 or its successor for the pharmacy's disposal of hazardous waste pharmaceuticals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2102 (October 2003), effective January 1, 2004, amended by the Department of Health, Board of Pharmacy, LR 46:793 (June 2020).

**§2517. Prescription Dispensing; Equivalent Drug Product Interchange; Drug Returns; Drug Disposal**

A. - C. ...

D. When a patient or his designee wishes to return previously dispensed prescription drugs to a pharmacy for disposal, the pharmacy shall inform the patient or his designee of the disposal mechanisms available to him. In the event the pharmacy elects to accept such previously dispensed products for disposal, the pharmacy shall comply with the following requirements:

1. From the time of receipt of such products until the time of disposal, the pharmacy shall quarantine such products to keep them separate from its active dispensing stock and shall take appropriate security measures to prevent the theft or diversion of such products.

2. The pharmacy shall comply with the provisions of 21 CFR §1317 or its successor for the pharmacy's disposal of controlled substances and other non-hazardous waste pharmaceuticals.

3. The pharmacy shall comply with the provisions of 40 CFR §261 or its successor for the pharmacy's disposal of hazardous waste pharmaceuticals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2104 (October 2003), effective January 1, 2004, amended by the Department of Health, Board of Pharmacy, LR 43:2162 (November 2017), LR 46:793 (June 2020).

**Chapter 27. Controlled Dangerous Substances**

**Subchapter A. General Provisions**

**§2701. Definitions**

A. Words not defined in this Chapter shall have their common usage and meaning as stated in the Merriam-

Webster's Collegiate Dictionary—Tenth Edition, as revised, and other similarly accepted reference texts. As used in this Chapter, the following terms shall have the meaning ascribed to them in this Section unless the context clearly indicates otherwise.

\* \* \*

CFR—Code of Federal Regulations

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 34:2127 (October 2008), amended by the Department of Health, Board of Pharmacy, LR 46:793 (June 2020).

#### **Subchapter F. Production, Distribution, and Utilization**

##### **§2749. Disposal of Controlled Substances**

A. - C. ...

D. When a patient or his designee wishes to return previously dispensed controlled dangerous substances to a pharmacy for disposal, the pharmacy shall inform the patient or his designee of the disposal mechanisms available to him. In the event the pharmacy elects to accept such previously dispensed products for disposal, the pharmacy shall comply with the following requirements:

1. From the time of receipt of such products until the time of disposal, the pharmacy shall quarantine such products to keep them separate from its active dispensing stock and shall take appropriate security measures to prevent the theft or diversion of such products.

2. The pharmacy shall comply with the provisions of 21 CFR §1317 or its successor for the pharmacy's disposal of controlled substances.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 34:2157 (October 2008), amended by the Department of Health, Board of Pharmacy, LR 46:794 (June 2020).

Malcolm J Broussard  
Executive Director

2006#016

### **RULE**

#### **Department of Health Bureau of Health Services Financing and Office of Behavioral Health**

Children and Adult Mental Health Services  
(LAC 50:XXXIII.2501, 2701, 6103,  
6303, 6305, 6307, 6501, and 6701)

The Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health has adopted LAC 50:XXXIII.2501, 2701, 6103, 6303, 6305, 6307, 6501, and 6701 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the date of promulgation.

### **Title 50**

#### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

##### **Part XXXIII. Behavioral Health Services**

##### **Subpart 3. Children's Mental Health Services**

##### **Chapter 25. Provider Participation**

##### **§2501. Provider Responsibilities**

A. Each provider of specialized behavioral health services shall enter into a contract with one or more of the managed care organizations (MCOs) and with the coordinated system of care (CSoC) contractor for youth enrolled in the Coordinated System of Care program in order to receive reimbursement for Medicaid covered services.

B. Providers shall deliver all services in accordance with their license and scope of practice, federal and state laws and regulations, the provisions of this Rule, the provider manual, and other notices or directives issued by the department. The provider shall create and maintain documents to substantiate that all requirements are met.

C. - D.6. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:364 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2359 (November 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 44:1893 (October 2018), LR 46:794 (June 2020).

##### **Chapter 27. Reimbursement**

##### **§2701. General Provisions**

A. For recipients enrolled with one of the managed care organizations (MCOs) or coordinated system of care (CSoC) contractor, the department or its fiscal intermediary shall make monthly capitation payments to the MCOs or the CSoC contractor.

1. - 2.a. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:365 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 39:317 (February 2013), LR 41:2359 (November 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 44:1893 (October 2018), LR 46:794 (June 2020).

##### **Subpart 7. Adult Mental Health Services**

##### **Chapter 61. General Provisions**

##### **§6103. Recipient Qualifications**

A. Individuals, 21 years of age and older, who meet Medicaid eligibility, shall qualify to receive adult mental health services referenced in LAC 50:XXXIII.6307 if medically necessary in accordance with LAC 50:I.1101, if the recipient presents with mental health symptoms that are consistent with a diagnosable mental disorder, and the services are therapeutically appropriate and most beneficial to the recipient.

B. Additional Recipient Eligibility Criteria for Community Psychiatric Support and Treatment (CPST) and Psychosocial Rehabilitation (PSR)

1. Members must meet the Substance Abuse and Mental Health Services Administration (SAMHSA)

definition of, serious mental illness (SMI). In addition to having a diagnosable mental disorder, the condition must substantially interfere with, or limit, one or more major life activities, such as:

- a. ...
- b. instrumental living (for example, taking prescribed medications or getting around the community); or
- 1.c. - 2....
3. Recipients receiving CPST and/or PSR shall have at least a level of care score of three on the LOCUS.
4. An adult with longstanding deficits who does not experience any acute changes in their status and has previously met the criteria stated in LAC 50:XXXIII.6103.B.2.-3, but who now meets a level of care score of two or lower, and needs subsequent medically necessary services for stabilization and maintenance at a lower intensity, may continue to receive CPST services and/or PSR, if deemed medically necessary.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:358 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:378 (February 2015), LR 42:60 (January 2016), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 44:1014 (June 2018), LR 46:794 (June 2020).

## **Chapter 63. Services**

### **§6303. Assessments**

A. Assessments shall be performed by a licensed mental health practitioner (LMHP).

B. Assessments for community psychiatric support and treatment (CPST) and psychosocial rehabilitation (PSR) must be performed at least once every 365 days or any time there is significant change to the enrollee's circumstances.

C. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:359 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:378 (February 2015), LR 42:60 (January 2016), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 44:1014 (June 2018), amended LR 46:795 (June 2020).

### **§6305. Treatment Plan**

A. Each enrollee who receives community psychiatric support and treatment (CPST) and psychosocial rehabilitation (PSR) services shall have a treatment plan developed based upon the assessment.

B. ...

1. The treatment plan shall be reviewed at least once every 180 days or when there is a significant change in the individual's circumstances.

C. The treatment plan shall be developed by the licensed mental health practitioner (LMHP) or physician in collaboration with direct care staff, the recipient, family and natural supports.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:359 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 42:60 (January 2016), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 44:1014 (June 2018), LR 46:795 (June 2020).

### **§6307. Covered Services**

A. The following mental health services shall be reimbursed under the Medicaid Program:

1. therapeutic services, including diagnosis and treatment delivered by licensed mental health practitioners (LMHPs) and physicians;

2. rehabilitation services, including community psychiatric support and treatment (CPST) and psychosocial rehabilitation (PSR); and

3. crisis intervention.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:359 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 42:61 (January 2016), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 44:1015 (June 2018), LR 46:795 (June 2020).

## **Chapter 65. Provider Participation**

### **§6501. Provider Responsibilities**

A. Each provider of adult mental health services shall enter into a contract with one or more of the managed care organizations (MCOs) in order to receive reimbursement for Medicaid covered services.

B. Providers shall deliver all services in accordance their license and scope of practice, with federal and state laws and regulations, the provisions of this Rule, the provider manual and other notices or directives issued by the department. The provider shall create and maintain documents to substantiate that all requirements are met.

C. - D.9. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:360 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:378 (February 2015), LR 42:61 (January 2016), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 44:1015 (June 2018), LR 46:795 (June 2020).

## **Chapter 67. Reimbursement**

### **§6701. Reimbursement Methodology**

A. Effective for dates of service on or after December 1, 2015, the department, or its fiscal intermediary, shall make monthly capitation payments to the managed care organizations (MCOs).

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:360 (February 2012), amended by the Department of Health and

Dr. Courtney N. Phillips  
Secretary

2006#033

**RULE**

**Department of Health  
Bureau of Health Services Financing**

**Routine Patient Care and Clinical Trials  
(LAC 50:I.305)**

The Department of Health, Bureau of Health Services Financing has adopted LAC 50:I.305 as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part I. Administration**

**Subpart 1. General Provisions**

**Chapter 3. Experimental Procedures**

**§305. Routine Care for Recipients in Clinical Trials**

A. This rule applies to any person or entity prescribing or reviewing a request for Louisiana Medicaid covered services and to all providers of these services who are enrolled in, or registered with, the Louisiana Medicaid program.

**B. Definitions**

*Clinical Trials*—biomedical or behavioral research studies on human participants designed to answer specific questions about biomedical or behavioral interventions, including new treatments and known interventions that warrant further study and comparison.

C. Coverage. Louisiana Medicaid reimburses for services as a result of a recipient participating in a clinical trial in accordance with the service-specific coverage policy when the services:

1. would otherwise be provided to a recipient who is not participating in a clinical trial;
2. are not unique to the experimental or investigational treatment; and
3. are not covered by the clinical trial sponsor.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

**HISTORICAL NOTE:** Promulgated by the Department of Health, Bureau of Health Services Financing, LR 46:796 (June 2020).

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Dr. Courtney N. Phillips  
Secretary

2003#050

**RULE**

**Department of Health  
Bureau of Health Services Financing**

**Telemedicine (LAC 50:I.501)**

The Department of Health, Bureau of Health Services Financing has amended LAC 50:I.501 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part I. Administration**

**Subpart 1. General Provisions**

**Chapter 5. Telemedicine**

**§501. Introduction**

A. Telemedicine is the use of an interactive audio and video telecommunications system to permit real time communication between a distant site health care practitioner and the beneficiary. There is no restriction on the originating site (i.e., where the beneficiary is located) and it can include, but is not limited to, a healthcare facility, school, or the beneficiary's home.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:2032 (August 2005), amended by the Department of Health, Bureau of Health Services Financing, LR 46:796 (June 2020).

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Dr. Courtney N. Phillips  
Secretary

2006#035

**RULE**

**Department of Public Safety and Corrections  
Office of State Police**

**Breath and Blood Alcohol Analysis Methods and  
Techniques (LAC 55:I.583)**

In accordance with the provisions of R.S. 32:663 relative to the authority of Department of Public Safety to promulgate and enforce rules pursuant to approval of testing methods, the Department of Public Safety, Office of State Police has amended rules under Title 55:I.583, in relation to breath and blood alcohol analysis to make a distinction between types of mass spectrometers used in toxicology

analyses and provide identification criteria in addition to criteria already listed. This Rule is hereby adopted on the date of promulgation.

**Title 55  
PUBLIC SAFETY  
Part I. State Police**

**Chapter 5. Breath and Blood Alcohol Analysis  
Methods and Techniques**

**Subchapter C. Analysis of Blood and Urine for  
Controlled Dangerous Substances**

**§583. Analytical Procedures**

A. ...

B. Positive identification of an analyte shall at a minimum be based on the possible presence of the analyte or the analyte class in the screening test and its presence in the confirmatory test. Confirmation shall be based on the identification of at least three major ions with that of a reference analyte, unless otherwise specified below. When confirmation is made by selective ion monitoring in either gas or liquid chromatography procedures, correlation between ion ratios of the base peak and another major peak shall be within 20 percent for gas chromatography/mass spectrometry procedures and within 30 percent for liquid chromatography/mass spectrometry procedures. When confirmation is made by multiple reaction monitoring using either gas or liquid chromatography procedures, the presence of a characteristic precursor ion and two product ions shall have an ion ratio within + or - 30 percent to that of a calibrator, or the average of all calibrators for the run. When the confirmation is made by gas or liquid chromatography coupled to a Time-of-Flight (ToF) or other high-resolution mass spectrometer (HRMS), the presence of a characteristic precursor ion with overall mass accuracy shall be less than 15 parts-per-million or + or - 5 millimass units. At least one additional product ion compared to that of a reference analyte shall also be present. Retention times between the analyte in question and the reference analyte shall be "within + or - 2 percent" for gas chromatography/mass spectrometry procedures and "within + or - 6 seconds or + or - 10 percent" for liquid chromatography/mass spectrometry procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 26:2625 (November 2000), amended LR 37:1417 (May 2011), LR 44:1272 (July 2018), LR 45:1809 (December 2019), LR 46:775 (June 2020).

Lt. Colonel Jason Starnes  
Deputy Superintendent/  
Chief Administrative Officer

2006#003

**RULE**

**Workforce Commission  
Office of Workers' Compensation Administration**

Medical Treatment Guidelines  
(LAC 40:I.2111)

The Louisiana Workforce Commission has amended certain portions of the Medical Guidelines contained in the

Louisiana Administrative Code, Title 40, Labor and Employment, Part I, Workers' Compensation Administration, Subpart 2, Medical Guidelines, Chapter 21, Section 2111 regarding chronic pain guidelines. This Rule is promulgated by the authority vested in the director of the Office of Workers' Compensation found in R.S. 23:1291 and R.S. 23:1310.1(C). This Rule is hereby adopted on the day of promulgation.

**Title 40  
LABOR AND EMPLOYMENT**

**Part I. Workers' Compensation Administration  
Subpart 2. Medical Guidelines**

**Chapter 21. Pain Medical Treatment Guidelines**

**Subchapter A. Chronic Pain Disorder Medical  
Treatment Guidelines**

Editor's Note: Form LWC-WC 1009. Disputed Claim for Medical Treatment has been moved to §2328 of this Part.

**§2111. Therapeutic Procedures—Non-Operative**

A. - B.4. ...

C. The following procedures are listed in alphabetical order.

1. - 14.f. ...

15. Personality/Psychological/Psychosocial  
Intervention

a. - f. ...

g. If a diagnosis consistent with the standards of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders (DSM) or most current ICD has been determined, the patient should be evaluated for the potential need for psychiatric medications. Use of any medication to treat a diagnosed condition may be ordered by an authorized treating physician or by either the consulting psychiatrist or medical psychologist. Visits for management of psychiatric medications are medical in nature and are not a component of psychosocial treatment. Therefore, separate visits for medication management may be necessary, depending on the patient and medications selected.

15.h. - 19.c.xvi.(a). ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1203.1.

HISTORICAL NOTE: Promulgated by the Louisiana Workforce Commission, Office of Workers Compensation Administration, LR 37:1692 (June 2011). amended LR 46:796 (February 2020), LR 46:797 (June 2020).

Ava Dejoie  
Secretary

2006#009

**RULE**

**Workforce Commission  
Office of Workers' Compensation Administration**

Prescription; Filing Procedure  
(LAC 40:I.5701)

The Louisiana Workforce Commission has amended certain portions of the Louisiana Administrative Code, Title 40, Labor and Employment, Part I, Workers' Compensation Administration, Subpart 3, Hearing Rules, Chapter 57, Subchapter A, Section 5701. This Rule is promulgated by

the authority vested in the director of the Office of Workers' Compensation found in R.S. 23:1291 and R.S. 23:1310.1(C). This Rule is hereby adopted on the day of promulgation.

**Title 40**

**LABOR AND EMPLOYMENT**

**Part I. Workers' Compensation Administration**

**Subpart 3. Hearing Rules**

**Chapter 57. Actions**

**Subchapter A. General Provisions**

**§5701. Prescription; Filing Procedure**

A. - B. ...

C.1. Within seven days, exclusive of legal holidays, after the district office or the records management division has received a facsimile transmission, the party filing the document shall forward the following to the district office or records manager:

- a. the original signed document;
- b. the applicable filing fee, if any per §6605, Fees, of this Part; and
- c. a transmission fee of \$5 in addition to \$5 for the first 5 pages and \$2.50 for each page thereafter.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:267 (February 1999), amended LR 25:1862 (October 1999), LR 33:654 (April 2007), amended by the Louisiana Workforce Commission, Office of Workers' Compensation, LR 37:1627 (June 2011), LR 46:798 (June 2020).

Ava Dejoie  
Secretary

2006#010

# Notices of Intent

## NOTICE OF INTENT

### Department of Agriculture and Forestry Office of Agriculture and Environmental Sciences

#### Guava Root Knot Nematode Quarantine (LAC 7:XV.171)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority set forth in R.S. 3:1652, notice is hereby given that the Department of Agriculture and Forestry (“department”) intends to adopt the Rule set forth below by amending LAC 7:XV.171. These amendments will allow sweet potatoes for processing from quarantined areas into Louisiana under special permit.

The department previously adopted the Guava Root Knot Nematode (GRKN) quarantine which restricts the movement of sweet potatoes into Louisiana. Excessive rainfall during the 2019 fall harvest season has caused a hardship on sweet potato production which will likely affect the welfare of the sweet potato processing industry in Louisiana if measures are not taken to mitigate the situation. A shortage of sweet potatoes caused by adverse environmental conditions, along with the GRKN quarantine currently in place, has limited the amount of sweet potatoes the processing industry can source from Louisiana producers and producers from surrounding states. Due to these adverse conditions and the current GRKN quarantine, Louisiana processors will be short of their annual sweet potato volume needed to keep processing facilities running year round. Without the ability to purchase additional sweet potatoes from outside the mid-south region, the industry is in jeopardy of having to cease operations for several months. Employees of processing facilities may be affected by potential plant closings which could result in lost wages and benefits for plant employees. Potential plant closings could also affect the welfare of the sweet potato industry by creating a limited market for producers to sell their sweet potatoes to processors. In 2019, sweet potato acreage in Louisiana was approximately 7,600 acres. According to Louisiana State University AgCenter, the processing market in Louisiana is a significant market and utilizes 65 percent of Louisiana’s sweet potato crop. This proposed amendment is required in order to provide the sweet potato processing industry an opportunity to source sweet potatoes from areas quarantined for GRKN to the processing facility under special permit issued by the department.

#### Title 7

#### AGRICULTURE AND ANIMALS

#### Part XV. Plant Protection and Quarantine

#### Chapter 1. Crop Pests and Diseases

#### Subchapter H. Guava Root Knot Nematode Quarantine

#### §171. Guava Root Knot Nematode Quarantine

A. - D.1. ...

2. certified seed sweet potatoes and sweet potatoes for processing may be moved from the quarantine area into Louisiana under a Special Permit issued by Louisiana Department of Agriculture and Forestry.

D.3. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1652, 3:1653.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 45:1437 (October 2019), amended LR 46:

#### Family Impact Statement

The proposed Rule should not have any known or foreseeable impact on family formation, stability, and autonomy. In particular, the proposed Rule has no known or foreseeable impact on:

1. the stability of the family;
2. the authority and rights of persons regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

#### Poverty Impact Statement

The proposed Rule should not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973(B). In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

#### Small Business Analysis

Pursuant to R.S. 49:965.6, methods for reduction of the impact on small business, as defined in the Regulatory Flexibility Act, have been considered when creating this proposed Rule. This proposed Rule is not anticipated to have an adverse impact on small businesses; therefore, a Small Business Economic Impact Statement has not been prepared.

#### Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

#### Public Comments

Interested persons may submit written comments, data, opinions and arguments regarding the proposed Rule. Written submissions must be directed to Ansel Rankins, Director of the Horticulture Commission, Department of

Agriculture and Forestry, 5825 Florida Blvd., Baton Rouge, LA 70806 and must be received no later than 4 p.m. on the 10th day of July, 2020.

Mike Strain, DVM  
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Guava Root Knot Nematode Quarantine**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed rule is not anticipated to have any fiscal impact to the Louisiana Department of Agriculture and Forestry (LDAF) other than the cost of promulgation in FY 20. The proposed rule provides the sweet potato processing industry an opportunity to move sweet potatoes from areas quarantined from Guava Root Knot Nematode ("GRKN") into the state under special permit issued by the department.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule is not anticipated to have any effect on revenue collections for state or local government entities.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed rule is not anticipated to create any costs. This proposed rule is required in order to provide the sweet potato processing industry an opportunity to source sweet potatoes from areas quarantined for GRKN to the processing facility under special permit issued by the Department. Without the ability to purchase additional sweet potatoes from outside the mid-south region, the industry is in jeopardy of having to cease operations for several months. Employees of processing facilities may be affected by potential plant closings as it is estimated that the total cost of lost wages and benefits would amount to \$2.5 million. Potential plant closings could also affect the welfare of the sweet potato industry by creating a limited market for producers to sell their sweet potatoes to processors. In 2019, sweet potato acreage in Louisiana was approximately 7,600 acres. According to Louisiana State University Ag Center, the processing market in Louisiana is a significant market and utilizes 65% of Louisiana's sweet potato crop.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed rule will allow the sweet potato processing industry to move sweet potatoes from areas quarantined for GRKN to the processing facilities under special permits issued by the Department. The department reports that failure to provide adequate supplies to the processing industry may lead to job loss and potential temporary closure of processing facilities. To the degree that the proposed rule mitigates this risk, it should create a positive impact on employment.

Dan Morgan  
Assistant Commissioner  
2006#021

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Children and Family Services  
Economic Stability Section**

Supplemental Nutritional Assistance Program (SNAP)  
(LAC 67:III.Chapter 19, 2013, and 2111)

In accordance with the provisions of the Administrative Procedure Act R.S. 49:953(A), the Department of Children and Family Services (DCFS) proposes to amend the *Louisiana Administrative Code* (LAC), Title 67, Part III Economic Stability.

Pursuant to the authority granted to the department by the Food and Nutrition Act of 2008 in accordance with federal regulations for the Supplemental Nutritional Assistance Program (SNAP) in 7 CFR 271 et seq., the department considers these amendments necessary to clarify or adopt rules that govern Economic Stability programs.

LAC 67:III, Subpart 3 Supplemental Nutritional Assistance Program (SNAP), Section 1938 is being amended to remove the requirement for mandatory participation in an Employment and Training Program, to update the disqualification periods for noncompliance with work requirements, and to remove whole household disqualifications. Section 1940 is being amended to update the 36-month time period and to maintain compliance with 7 CFR 273.24. Section 1941 is being amended to maintain compliance with 7 CFR 273.7. Section 1987 is being amended to maintain compliance with 7 CFR 273.2(j)(2). Section 1988 is being amended to maintain compliance with 7 CFR 273.11(r) and (s). Sections 1998, 2013, and 2111 are being amended to maintain compliance with 7 CFR 273.12(a)(1)(viii).

**Title 67**

**SOCIAL SERVICES**

**Part III. Economic Stability**

**Subpart 3. Supplemental Nutritional Assistance Program (SNAP)**

**Chapter 19. Certification of Eligible Households  
Subchapter G. Work Requirements**

**§1938. Work Registration Requirements**

A. Each household member who is not exempt from work registration shall be registered for employment before certification and recertification as a condition of eligibility. At the time of application, the state agency shall explain to the applicant the consequences of violation of the work requirements.

1. No individual physically and mentally fit and between the ages of 16 and 60, is eligible to participate if that individual:

- a. refuses without good cause to provide sufficient information to allow a determination of his/her employment status or job availability;
- b. voluntarily and without good cause quits a job;
- c. voluntarily and without good cause reduces his/her work effort (and, after the reduction, is working less than 30 hours a week);

d. fails at certification and recertification to register for employment; or

e. refuses without good cause to accept an offer of employment.

2. If it is determined that an individual has violated the work requirements without good cause, that individual shall be ineligible to participate in SNAP as follows:

a. first sanction—until failure to comply ceases or one month, whichever is longer;

b. second sanction—until failure to comply ceases or three months, whichever is longer;

c. third or subsequent sanction—until failure to comply ceases or six months, whichever is longer.

3. If any individual who violated the work requirement joins another household, that individual shall be considered an ineligible household member.

B. Determining Whether a Work Requirement Violation Occurred

1. When a household files an application for participation, or when a participating household reports the loss of a source of income, the DCFS shall determine whether any household member:

a. refused without good cause to provide sufficient information to allow a determination of his/her employment status or job availability;

b. voluntarily and without good cause quit a job;

c. voluntarily and without good cause reduced his/her work effort (and, after the reduction, is working less than 30 hours a week);

d. refused without good cause, at the time of recertification, to register for employment;

e. refused without good cause to accept an offer of employment.

2. Benefits shall not be delayed beyond the normal processing times pending the outcome of this determination. This provision applies only if the employment involved 30 hours or more per week or provided weekly earnings equivalent to the federal minimum wage multiplied by 30 hours; the violation occurred within 60 days prior to the date of application or anytime thereafter, and was without good cause. Terminating a self-employment enterprise or resigning from a job at the demand of the employer will not be considered a violation for purpose of this Section. An employee of the federal government, or of a state or local government who participates in a strike against such government, and is dismissed from his or her job because of participation in the strike, shall be considered to have violated the work requirements without good cause.

3. If an application for participation is filed in the last month of the disqualification period, the eligibility worker shall use the same application for the denial of benefits in the remaining month of disqualification and certification for any subsequent month(s) if all other eligibility criteria are met.

4. Upon a determination that a violation of the work requirements occurred, the DCFS shall determine if the violation was with good cause. If it is determined that good cause does not exist, the sanction will be imposed. The DCFS shall provide the household with a notice of ineligibility. The notice shall inform the household of the proposed period of disqualification; its right to reapply at the end of the disqualification; and of its right to a fair hearing.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and P.L. 110-246.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:80 (January 1997), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2528 (November 2010), amended by the Department of Children and Family Services, Economic Stability Section, LR 42:1651 (October 2016), LR 46:

#### **§1940. Work Participation Requirements for Able-Bodied Adults without Dependents**

A. Individuals are ineligible to continue to receive SNAP benefits if, during the current 36-month fixed clock period they received SNAP benefits for at least 3 months (consecutive or otherwise) while that individual did not either:

1. work (including paid or unpaid) an average of 20 hours per week or participate in and comply with a program under Title 1 of the Workforce Innovation and Opportunity Act (WIOA), Trade Adjustment Assistance Act program, or employment and training program (other than a job search or job search training program) for an average of 20 hours per week;

2. participate in a combination of work and training as described in Paragraph A.1 of this Section for an average of 20 hours per week; or

3. participate in and comply with a workfare program.

B. An individual is exempt from this requirement if the individual is:

1. under age 18, or 50 years of age or older;

2. medically certified as physically or mentally unfit for employment;

3. residing in a SNAP household where a household member is under age 18, even if the household member who is under age 18 is not eligible to receive SNAP benefits;

4. pregnant; or

5. otherwise exempt from work registration requirements.

C. Individuals can regain eligibility for assistance.

1. Individuals denied eligibility under Subsection A of this Section can regain eligibility if during a 30-day period the individual:

a. works 80 hours or more, or participates in and complies with a Program under WIOA, Trade Adjustment Assistance Act Program, or Employment and Training Program (other than a job search or job search training program) for 80 hours or more; or

b. any combination of work and participation in a program identified in Subparagraph C.1.a. of this Section for a total of 80 hours or more; or

c. participates in and complies with a workfare program (under Section 20 of the Food and Nutrition Act of 2008 or a comparable state or local program) for 80 hours or more.

2. An individual who regained eligibility and who is no longer fulfilling the work requirement is eligible for three consecutive countable months one time during the 36-month fixed-clock period, starting on the date the individual first notifies the agency that he or she is no longer fulfilling the work requirement, unless the individual has been satisfying the work requirement by participating in a work, training, or workfare program, in which case the period starts on the date

the agency notifies the individual that he or she is no longer meeting the work requirement.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, 7 CFR 273.24, and P.L. 110-246.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:81 (January 1997) amended LR 34:885 (May 2008), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2528 (November 2010), amended by the Department of Children and Family Services, Economic Stability Section, LR 42:1652 (October 2016), LR 46:

#### **§1941. Work Requirements of the SNAP Household**

A. Persons losing exemption status due to any change in circumstances that are subject to the reporting requirements shall register for employment when the change is reported.

1. A person age 16 or 17 who is not head of household or who is attending school or enrolled in an employment training program on at least a half-time basis is exempt.

2. A household member subject to and complying with any work requirement under Title IV of the Social Security Act is also exempt.

B. Each household member who is not exempt must register for employment before certification and recertification. The department will explain to the applicant the pertinent work requirements, rights and responsibilities of work registered household members, and the consequences of failure to comply. A written statement of this will be given to each work registrant.

C. Employment and Training (E and T) Programs

1. The department submitted an Employment and Training Program Plan to the United States Department of Agriculture, Food and Nutrition Service (FNS) Dallas Regional Office and the FNS Office of Alexandria, Virginia. A copy of the plan is available for public inspection at the Supplemental Nutritional Assistance Program Office, 627 North Fourth Street, Baton Rouge, Louisiana 70802.

2. Work registrants shall:

a. respond to a request from the department or its designees for supplemental information regarding employment status or availability for work;

b. report to an employer to whom referred by the department or its designee if the potential employment meets the suitability requirements;

c. accept a bona fide offer of suitable employment at a wage not less than the higher of either the applicable state or federal minimum wage.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 273.7 (c) (2), P.L. 104-193, P.L. 110-246.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:394 (July 1987), amended by the Department of Social Services, Office of Eligibility Determinations, LR 15:96 (February 1989), amended by the Department of Social Services, Office of Family Support, LR 18:748 (July 1992), LR 18:1268 (November 1992), LR 23:81 (January 1997), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2528 (November 2010), LR 46:

#### **Subchapter J. Determining Household Eligibility and Benefit Levels**

##### **§1987. Categorical Eligibility for Certain Recipients**

A. Households Considered Categorically Eligible

1. Households in which all members are recipients of benefits from the FITAP, STEP, KCSP, and/or SSI, shall be considered categorically eligible for SNAP.

2. Recipient includes an individual determined eligible for TANF or SSI benefits, but the benefits have not yet been paid.

3. Recipient shall also include a person determined eligible to receive zero benefits, i.e., a person whose benefits are being recouped or a TANF recipient whose benefits are less than \$10 and therefore does not receive any cash benefits.

4. A household shall not be considered categorically eligible if:

a. any member of that household is disqualified for an intentional program violation;

b. any member of that household is disqualified for being a fleeing felon or a probation or parole violator or for being convicted as an adult of certain crimes after February 7, 2014, and not in compliance with the terms of their sentence. These crimes include:

i. aggravated sexual abuse under section 2241 of Title 18, United States Code;

ii. murder under section 1111 of Title 18, United States Code;

iii. an offense under chapter 110 of Title 18, United States Code;

iv. a federal or state offense involving sexual assault, as defined in section 40002(a) of the Violence Against Women Act of 1994 (42 U.S.C. 13925(a)); or

v. an offense under state law determined by the attorney general to be substantially similar to an offense described in Clause A.4.b.i, ii, or iii of this Section.

c. the household was disqualified due to receipt of substantial lottery or gambling winnings equal to or greater than the elderly or disabled resource limit. If the household reapplies after losing eligibility due to these winnings, the household would not be considered categorically eligible and must meet the income and resource limit. The case would be processed under regular SNAP rules. This requirement only applies to the first time a household is certified following the loss of eligibility due to substantial lottery or gambling winnings.

5. The following persons shall not be considered a member of a household when determining categorical eligibility:

a. an ineligible alien;

b. an ineligible student;

c. an institutionalized person;

d. an individual who is disqualified for failure to comply with the work registration requirements;

e. an individual who is disqualified for failure to provide or apply for a Social Security number;

f. an individual who is on strike.

6. Households which are categorically eligible are considered to have met the following SNAP eligibility factors without additional verification:

a. resources;

b. Social Security numbers;

c. sponsored alien information;

d. residency.

7. These households also do not have to meet the gross and net income limits. If questionable, the factors used to determine categorical eligibility shall be verified.

8. Categorically eligible households must meet all SNAP eligibility factors except as outlined above.

9. Changes reported by categorically-eligible SNAP households shall be handled according to established procedures except in the areas of resources or other categorical eligibility factors.

10. Benefits for categorically-eligible households shall be based on net income as for any other household. One- and two-person households will receive a minimum benefit as required by 7 CFR 273.10(e)(2)(ii)(C). Households of three or more shall be denied if net income exceeds the level at which benefits are issued.

#### B. Application Processing

1. Households in which all members are applying for public assistance shall continue to be processed according to joint processing procedures. Until a determination is made on the public assistance application, the household's SNAP eligibility and benefit level shall be based on SNAP eligibility criteria. However, the local office shall postpone denying a potentially categorically-eligible household until the thirtieth day in case the household is determined eligible to receive public assistance benefits.

2. The household shall be informed on the notice of denial that it is required to notify the local office if its FITAP or SSI benefits are approved.

3. If the household is later determined eligible to receive public assistance benefits after the thirtieth day and is otherwise categorically eligible, benefits shall be provided using the original application along with other pertinent information occurring subsequent to the application.

4. The local office shall not reinterview the household but shall use any available information to update the application and/or make mail or phone contact with the household or authorized representative to determine any changes in circumstances. Any changes shall be initialed and the updated application re-signed by the authorized representative or authorized household member.

5. If eligibility for public assistance is determined within the 30-day SNAP processing time, benefits shall be provided back to the date of application. If eligibility for public assistance is determined after the SNAP application is denied, benefits for the initial month shall be prorated from the effective date of the public assistance certification or the date of the SNAP application, whichever is later.

C. Certified households which become categorically eligible due to receipt of SSI benefits shall be eligible for the medical and uncapped shelter deductions from the beginning of the period for which the SSI benefits are authorized or the date of the SNAP application, whichever is later. These additional benefits shall be provided through restoration.

D. For SNAP purposes, refugee cash assistance (RCA) benefits are not considered public assistance and, therefore, an RCA household is not categorically eligible.

E. Households who receive a non-cash TANF/MOE funded benefit or service may be considered broad-based categorically eligible for Supplemental Nutritional Assistance Program (SNAP).

1. A household shall not be considered broad-based categorically eligible if:

- a. any member of that household is disqualified for an intentional program violation; or
- b. any member of that household is disqualified for being a fleeing felon or a probation or parole violator or for being convicted as an adult of certain crimes after February

7, 2014, and not in compliance with the terms of their sentence. These crimes include:

- i. aggravated sexual abuse under section 2241 of Title 18, United States Code;
- ii. murder under section 1111 of Title 18, United States Code;
- iii. an offense under chapter 110 of Title 18, United States Code;
- iv. a federal or state offense involving sexual assault, as defined in section 40002(a) of the Violence Against Women Act of 1994 (42 U.S.C. 13925(a)); or
- v. an offense under state law determined by the attorney general to be substantially similar to an offense described in Clause A.4.b.i, ii, or iii of this Section.

2. The following persons shall not be considered a member of a household when determining broad-based categorical eligibility:

- a. an ineligible alien;
- b. an ineligible student;
- c. an institutionalized person;
- d. an individual who is disqualified for failure to comply with the work registration requirements;
- e. an individual who is disqualified for failure to provide or apply for a social security number;
- f. an individual who is on strike.

3. Households which are broad-based categorically eligible are considered to have met the resource eligibility factor without additional verification.

4. Broad-based categorically eligible households must meet all Supplemental Nutritional Assistance Program eligibility factors except as outlined above.

5. Benefits for broad-based categorically eligible households shall be based on net income as for any other household.

AUTHORITY NOTE: Promulgated in accordance with F.R. 51:28196 et seq., 7 CFR 271, 272, 273.10, and 274, F.R. 56:63612-63613, P.L. 104-193, 7 CFR 273.2(j)(2)(xi), Act 58, 2003 Reg. Session, 7 CFR 273.2, (j), and P.L. 110-246.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:90 (February 1987), amended by the Department of Social Services, Office of Family Support, LR 18:1267 (November 1992), LR 24:1783 (September 1998), LR 26:349 (February 2000), LR 27:867 (June 2001), LR 27:1934 (November 2001), LR 30:495 (March 2004), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2531 (November 2010), amended by the Department of Children and Family Services, Economic Stability Section, LR 40:1312 (July 2014), LR 44:444 (March 2018), amended by the Department of Children and Family Services, Economic Stability Section, LR 45:1441 (October 2019), LR 46:

#### **§1988. Eligibility Disqualification of Certain Recipients**

A. Fleeing felons and probation/parole violators are ineligible for benefits.

B. An individual convicted as an adult of certain crimes after February 7, 2014, and not in compliance with the terms of their sentence is ineligible for benefits. These crimes include:

1. aggravated sexual abuse under section 2241 of Title 18, United States Code;
2. murder under section 1111 of Title 18, United States Code;
3. an offense under chapter 110 of Title 18, United States Code;

4. a federal or state offense involving sexual assault, as defined in section 40002(a) of the Violence Against Women Act of 1994 (42 U.S.C. 13925(a)); or

5. an offense under state law determined by the attorney general to be substantially similar to an offense described in Clause A.4.b.i, ii, or iii of this Section.

C. The household is disqualified due to receipt of substantial lottery or gambling winnings equal to or greater than the elderly or disabled resource limit.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:233.1, P.L. 105-33, and P.L. 110-246.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:83 (January 1997), amended LR 23:590 (May 1997), LR 23:1710 (December 1997), LR 24:1783 (September 1998), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2532 (November 2010), amended by Department of Children and Family Services, Economic Stability Section, LR 44:445 (March 2018), LR 46:

### **Subchapter L. Reporting Changes**

#### **§1998. Reporting Requirements**

A. Effective November 2009, all SNAP households are included in simplified reporting with the exception of households participating in the Louisiana Combined Application Project (LaCAP).

B. Simplified reporting households are required to report only:

1. changes in the household's gross monthly income which result in the household's income exceeding 130 percent of the monthly poverty income guideline for the household size;

2. changes in work or training hours of able-bodied adults without dependents (ABAWDs) who are subject to the time limit set forth in Section 1940 if the change results in the ABAWD working or participating in training an average of less than 20 hours per week; and

3. all SNAP households, including LaCAP and categorically eligible households, are required to report when a member of the household receives substantial lottery or gambling winnings equal to or exceeding the resource limit for elderly or disabled households won in a single game before taxes or other amounts are withheld. The winnings must be reported by the 10th of the month following the month the lottery or gambling winnings were won.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 273.12(a), P.L. 107-171.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:1486 (July 2004), amended LR 35:689 (April 2009), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2533 (November 2010), LR 46:

### **Subchapter R. Simplified Reporting**

#### **§2013. Simplified Reporting**

A. Effective November 2009, all SNAP households are included in simplified reporting with the exception of households participating in the Louisiana Combined Application Project (LaCAP).

B. Households subject to simplified reporting will be required to report only:

1. changes in gross monthly income which exceed 130 percent of the monthly poverty income guideline for the household size;

2. changes in work or training hours of able-bodied adults without dependents (ABAWDs) who are subject to the time limit set forth in §1940 if the change results in the ABAWD working or participating in training an average of less than 20 hours per week; and

3. all SNAP households, including LaCAP and categorically eligible households, are required to report when a member of the household receives substantial lottery or gambling winnings equal to or exceeding the resource limit for elderly or disabled households won in a single game before taxes or other amounts are withheld. The winnings must be reported by the 10th of the month following the month the lottery or gambling winnings were won.

C. Households included in simplified reporting will be assigned a certification period of 12 months.

D. All households in simplified reporting are required to:

1. timely provide a completed simplified report and all necessary verification; and

2. report current household circumstances.

E. Failure to provide a complete simplified report and verification will result in case closure.

F. Benefits will be determined prospectively based on verified circumstances.

G. Any change in benefits as a result of simplified reporting will be effective the month following the month in which the simplified report was required.

H. Effective August 7, 2001, other changes will be processed in accordance with §1999, Reduction or Termination of Benefits.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 273.12(a), P.L. 107-171.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:867 (June 2001), amended LR 28:103 (January 2002), LR 29:607 (April 2003), LR 35:689 (April 2009), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2534 (November 2010), LR 46:

### **Chapter 21. Louisiana Combined Application Project (LaCAP)**

#### **Subchapter A. Household Concept**

##### **§2111. Change Reporting**

A. Households participating in LaCAP must be allowed, to report changes in circumstances affecting their eligibility or benefit level.

B. Households participating in LaCAP are required to report when the household receives substantial lottery or gambling winnings equal to or exceeding the resource limit for elderly or disabled households won in a single game before taxes or other amounts are withheld. The winnings must be reported by the 10th of the month following the month the lottery or gambling winnings were won.

C. The agency must act on changes when it becomes aware of the change from the household or another source if the change affects the household's eligibility or benefit level.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 7 CFR 271.3(c), 7CFR Part 282, and Section 17 of the Food Stamp Act of 1977.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 32:2272 (December 2006), LR 46:

### Family Impact Statement

The proposed Rule is not anticipated to have an adverse impact on family formation, stability, and autonomy as described in R.S. 49:972. The amount of costs or savings due to these changes are indeterminate.

### Poverty Impact Statement

The proposed Rule is not anticipated to have a significant negative impact on poverty as described in R.S. 49:973.

### Small Business Impact Statement

The proposed Rule is not anticipated to have an adverse impact on small businesses as defined in the Regulatory Flexibility Act.

### Provider Impact Statement

The proposed Rule is not anticipated to have an impact on providers of services funded by the state as described in HCR 170 of the 2014 Regular Legislative Session.

### Public Comments

All interested persons may submit written comments through, July 28, 2020, to Sammy Guillory, Deputy Assistant Secretary of Family Support, Department of Children and Family Services, P.O. Box 94065, Baton Rouge, LA 70804.

### Public Hearing

A public hearing on the proposed Rule will be held on July 28, 2020, at the Department of Children and Family Services, Iberville Building, 627 North Fourth Street, Seminar Room 1-125, Baton Rouge, LA beginning at 10 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the DCFS Appeals Unit at least seven working days in advance of the hearing. For assistance, call (225)342-4120 (Voice and TDD).

Marketa Garner Walters  
Secretary

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Supplemental Nutritional Assistance Program (SNAP)

### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The cost of publishing the proposed rules is estimated to be approximately \$3,280 (\$1,640 State and \$1,640 Federal) in FY 20. There is no state cost associated with the proposed changes in SNAP benefits. SNAP benefits are funded with 100% federal funds.

The amendments propose the following changes to the SNAP program:

1.) Provides that the Employment and Training (E&T) program is no longer mandatory and an individual and their household can no longer be disqualified from benefits for refusal to participate in the E&T program

2.) Provides that the whole household is no longer ineligible for benefits if the head of the household fails to meet work registration requirements

3.) Reduces the sanction period for failure to comply with work registration requirements from 3 months to 1 month for the first sanction, from 6 months to 3 months for the second sanction, and adds a third and subsequent sanction period of 6 months

4.) Provides that an individual is ineligible for benefits if he is a fleeing felon, in violation of parole or probation, or not

in compliance with the terms of their sentence if convicted of certain crimes

5.) Provides that a household cannot be categorically eligible for benefits if any member of the household receives gambling or lottery winnings above a certain amount

6.) Updates reporting requirement for households that receive gambling or lottery winnings above a certain amount

7.) Clarifies the able-bodied adults without dependents (ABAWDs) can meet work requirements by participating in paid or unpaid work for 20 hours per week, the Workforce Innovation and Opportunity Act (WIOA) program for 20 hours per week, or a combination of both

### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed change will impact revenue collections at the Louisiana Workforce Commission (LWC) and four local governmental units.

DCFS currently has a \$1.2M contract with the LWC that is funded with 100% federal funds to run the mandatory E&T program. LWC uses the funds, in part, to subcontract with four local governmental units to provide the E&T services to SNAP recipients. DCFS will no longer contract with LWC to run this program.

LWC	-\$126,577
City of Shreveport	-\$319,094
Ouachita Parish Police Jury	-\$255,521
City of New Orleans	-\$295,803
Rapides Parish Police Jury	-\$195,848
Total Revenue	-\$1,192,843

### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change will have an impact on several groups.

The proposed change will have an economic cost to certain individuals convicted of crimes and individuals who receive a minimum level of lottery and gambling winnings, given that they will no longer be eligible for SNAP benefits.

The proposed change will have an economic benefit to certain individuals whose head of household does not meet the mandatory work registration requirements, given that they will no longer be disqualified for SNAP benefits.

The proposed change may have an economic benefit to individuals that were previously disqualified for SNAP benefits due to a failure to participate in the E&T program, given that the E&T program is no longer mandatory.

### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

To the extent that an individual is less employable due to not participating in the E&T program, the proposed change may have an adverse impact on his employment opportunities.

Sammy Guillory  
Deputy Assistant Secretary  
2005#036

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Environmental Quality Office of the Secretary Legal Affairs and Criminal Investigations Division

Revisions to the Petition Provisions of the Part 70 Operating Permits Program  
(LAC 33:III.531 and 533)(AQ387ft)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions

of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the air regulations, LAC 33:III.531 and 533 (Log # AQ387ft).

This Rule is identical to federal regulations found in 85 CFR Part 24, pages 6431-6446, 40 CFR Part 70.7(h)(2), (5), (6), 70.8(a)(1) & (d), 70.12(a), and 70.14, which are applicable in Louisiana. For more information regarding the federal requirement, contact Deidra Johnson at (225) 219-3985. No fiscal or economic impact will result from the Rule. This Rule will be promulgated in accordance with the procedures in R.S. 49:953(F)(3) and (4).

On February 5, 2020, the Environmental Protection Agency (EPA) revised its regulations to streamline and clarify processes related to submission and review of Title V petitions. This Rule will incorporate the relevant provisions of the federal Rule into LAC 33:III.531 and 533. Most notably, the Rule will require LDEQ to provide EPA with a written response to significant comments received on proposed Title V permit actions in order to commence EPA's 45-day review period described in LAC 33:III.533.C.

LDEQ's Part 70 operating permits program, which is codified in LAC 33:III.507 and several other sections of LAC 33:III.Chapter 5, must conform to the minimum requirements of 40 CFR Part 70 (State Operating Permit Programs). Per 40 CFR 70.1, "[t]hese regulations define the minimum elements required by the Act for State operating permit programs." 40 CFR 70.4(i) allows a state with an approved Part 70 operating permits program, like Louisiana, to initiate a program revision when relevant federal regulations are modified or supplemented. The basis and rationale for this Rule are to incorporate the relevant provisions of EPA's Rule entitled, "Revisions to the Petition Provisions of the Title V Permitting Program" into LAC 33:III.531 and 533. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

### **Title 33**

## **ENVIRONMENTAL QUALITY**

### **Part III. Air**

#### **Chapter 5. Permit Procedures**

#### **§531. Public Notice and Affected State Notice**

A. - A.3.a.ii. ...  
b. Such notice shall identify:  
i. - iv. ...  
v. the name or title, address, and telephone number of an LDEQ employee from whom additional information may be obtained, including copies of the proposed permit, the application, and all supporting materials, including the Statement of Basis required by Paragraph A.4 of this Section;  
b.vi. - d. ...

4. Statement of Basis. The permitting authority shall provide a statement that sets forth the legal and factual basis for the proposed permit conditions of any permit issued to a Part 70 source, including references to the applicable statutory or regulatory provisions. The permitting authority shall send this statement to any person who requests it and to EPA.

B. - B.3. ...

C. The permitting authority shall keep a record of the commenters and of the issues raised during the public participation process, as well as records of the written comments submitted during that process. Such records shall be available to the public. This requirement may be met by making the written comments received and any public hearing transcript available on the department's electronic document management system.

D. The permitting authority shall respond in writing to all significant comments raised during the public participation process, including any such written comments submitted during the public comment period and any such comments raised during any public hearing on the proposed permit. A copy of the written response to significant comments shall be made available to the public on the department's electronic document management system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), amended by the Office of the Secretary, Legal Affairs Division, LR 32:1841 (October 2006), amended by the Office of the Secretary, Legal Division, LR 43:926 (May 2017), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 46:

#### **§533. EPA Notice, Review, and Objection**

A. ...

B. Transmittal of Information

1. A copy of each permit application pertaining to a major Part 70 source (including an application for a significant or minor permit modification) shall be provided to EPA by the owner or operator at the time the application is submitted to the permitting authority.

2. A copy of each proposed permit and Statement of Basis (SOB) pertaining to a major Part 70 source shall be provided to EPA by the permitting authority.

a. If, during the public participation process, the permitting authority receives significant comments on the proposed permit before a copy of the proposed permit and SOB have been provided to EPA, the permitting authority shall provide EPA with a written response to significant comments along with the proposed permit and SOB.

b. If, during the public participation process, the permitting authority receives significant comments on the proposed permit after a copy of the proposed permit and SOB have been provided to EPA, the permitting authority shall make any necessary revisions to the permit and/or SOB to address such comments and provide EPA with the proposed permit, SOB, and written response to significant comments after the public comment period has closed. The permit submitted to EPA with the written response to significant comments after the public comment period has closed shall be considered the proposed permit for purposes of this Paragraph.

3. A copy of each final permit issued to a major Part 70 source shall be provided to EPA by the permitting authority. If significant comments were received during any required public participation process, a copy of the written response to significant comments shall also be provided to EPA.

B.4. - D.3. ...

E. Public Petitions to EPA

1. If the administrator does not object in writing under Subsection D of this Section, any person may petition the administrator to make such objection. Such petitions must be made within 60 days after the expiration of the administrator's 45-day review period.

a. Each public petition filed with the administrator must include the elements described in 40 CFR 70.12(a) in the order set forth therein and be submitted by one of the methods listed in 40 CFR 70.14.

b. The petitioner shall provide a copy of the petition to the permitting authority and to the permit applicant.

2. - 5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), amended LR 20:1376 (December 1994), amended by the Office of the Secretary, Legal Division, LR 38:2745 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 46:

**Family Impact Statement**

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

**Poverty Impact Statement**

This Rule has no known impact on poverty as described in R.S. 49:973.

**Small Business Analysis**

This Rule has no known impact on small business as described in R.S. 49:965.2 - 965.8.

**Provider Impact Statement**

This Rule has no known impact on providers as described in HCR 170 of 2014.

**Public Hearing**

A public hearing will be held on July 29, 2020, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Deidra Johnson at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

**Public Comments**

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ387ft. Such comments must be received no later than July 29, 2020, at 4:30 p.m., and should be sent to Deidra Johnson, Attorney Supervisor, Office of the Secretary, Legal Affairs and Criminal Investigations Division, P.O. Box 4302, Baton Rouge, LA 70821-4302, fax (225) 219-4068, or by E-mail to DEQ.Reg.Dev.Comments@la.gov. The comment period for this Rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased by contacting the LDEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ387ft. This regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

This proposed regulation is available for inspection at the following LDEQ office locations from 8 a.m. until 4:30

p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

Herman Robinson  
General Counsel

2006#013

**NOTICE OF INTENT**

**Department of Environmental Quality  
Office of the Secretary  
Legal Affairs and Criminal Investigations Division**

**Recovery Furnaces (LAC 33:III.2301)(AQ388)**

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air regulations, LAC 33:III.2301 (AQ388).

This Rule reduces the frequency of the performance tests required by LAC 33:III.2301.D.4.b.ii from annually to once every five years. This Rule also provides an exemption from the total reduced sulfur (TRS) limitations of LAC 33:III.2301.D.3 for recovery furnaces subject to 40 CFR 60 Subpart BBa (Standards of Performance for Kraft Pulp Mill Affected Sources for Which Construction, Reconstruction, or Modification Commenced After May 23, 2013). Finally, this Rule provides an exemption from the opacity standard of LAC 33:III.2301.D.4.a for recovery furnaces subject to 40 CFR 63 Subpart MM (National Emission Standards for Hazardous Air Pollutants for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone Semichemical Pulp Mills).

Currently, owners or operators of recovery furnaces located at pulp and paper mills are required to conduct annual performance tests to demonstrate compliance with the particulate matter (PM) limitation of LAC 33:III.2301.D.1.a (i.e., 4.0 pounds per equivalent pulp ton). These recovery furnaces are also subject to more stringent federal standards for PM under 40 CFR 63 Subpart MM and the associated performance testing and monitoring requirements set forth therein. In order to reduce compliance costs for owners or operators of recovery furnaces, the frequency of the performance tests required by LAC 33:III.2301.D.4.b.ii will be reduced from annually to once every five years.

LAC 33:III.2301.E, promulgated on October 20, 2006, already provides an exemption from the TRS limitations of LAC 33:III.2301.D.3 for recovery furnaces subject to 40 CFR 60 Subpart BB (Standards of Performance for Kraft Pulp Mills). This Rule will expand this exemption to recovery furnaces subject to Subpart BBa, promulgated April 4, 2014. Like Subpart BB, Subpart BBa establishes TRS standards that are equivalent to or more stringent than those set forth in LAC 33:III.2301.D.3.

Likewise, 40 CFR 63 Subpart MM establishes opacity standards for recovery furnaces that are more stringent than that provided by LAC 33:III.2301.D.4.a. While the federal standards apply only to recovery furnaces equipped with an electrostatic precipitator (ESP), a determination of opacity from furnaces controlled using a wet scrubber or combination ESP/wet scrubber is generally not possible due to the presence of uncombined water in the flue gas discharge. The basis and rationale for this Rule are to reduce compliance costs for owners or operators of recovery boilers obligated to comply with more stringent federal standards for PM and to provide exemptions from the TRS and opacity limitations of LAC 33:III.2301 for recovery boilers subject to equivalent or more stringent federal standards under 40 CFR 60 Subpart Bba and 40 CFR 63 Subpart MM, respectively. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

**Title 33**  
**ENVIRONMENTAL QUALITY**  
**Part III. Air**

**Chapter 23. Control of Emissions for Specific Industries<sup>1</sup>**

<sup>1</sup>Regulation of emissions of volatile organic compounds for certain industries are presented in Chapter 21.

**Subchapter A. Chemical Woodpulp Industry**  
**§2301. Control of Emissions from the Chemical Woodpulp Industry**

A. - D.3.b. ...

4. Opacity Limitation

a. ...

b. Compliance. Owners or operators shall conduct source tests of recovery furnaces pursuant to the provisions in LAC 33:III.1503.D, Table 4, to confirm particulate emissions are less than that specified in Paragraph D.1 of this Section. The results shall be submitted to the Office of Environmental Services as specified in LAC 33:III.919 and 918. The testing should be conducted as follows:

- i. four tests at six month intervals within 24 months of initial startup; and
- ii. one test every five years thereafter.

E. Exemptions

1. The TRS limitations of Paragraph D.3 of this Section do not apply to affected facilities subject to 40 CFR 60, Subpart BB—Standards of Performance for Kraft Pulp Mills, or 40 CFR 60, Subpart BBa—Standards of Performance for Kraft Pulp Mill Affected Sources for Which Construction, Reconstruction, or Modification Commenced After May 23, 2013.

2. The opacity limitation of Subparagraph D.4.a of this Section does not apply to affected sources subject to 40 CFR 63, Subpart MM—National Emission Standards for Hazardous Air Pollutants for Chemical Recovery Combustion Sources at Kraft, Soda, Sulphite, and Stand-Alone Semicemical Pulp Mills.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the

Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1564 (December 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2454 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2442 (October 2005), LR 32:1841 (October 2006), LR 33:2088 (October 2007), LR 34:1892 (September 2008), amended by the Office of the Secretary, Legal Division, LR 38:2753 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 46:

**Family Impact Statement**

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

**Poverty Impact Statement**

This Rule has no known impact on poverty as described in R.S. 49:973.

**Small Business Analysis**

This Rule has no known impact on small business as described in R.S. 49:965.2 - 965.8.

**Provider Impact Statement**

This Rule has no known impact on providers as described in HCR 170 of 2014.

**Public Comments**

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ388. Such comments must be received no later than August 5, 2020, at 4:30 p.m., and should be sent to Deidra Johnson, Attorney Supervisor, Office of the Secretary, Legal Affairs and Criminal Investigations Division, P.O. Box 4302, Baton Rouge, LA 70821-4302, fax (225) 219-4068, or by e-mail to DEQ.Reg.Dev.Comments@la.gov. Copies of these proposed regulations can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ388. These proposed regulations are available on the Internet at [www.deq.louisiana.gov/portal/tabid/1669/default.aspx](http://www.deq.louisiana.gov/portal/tabid/1669/default.aspx).

**Public Hearing**

A public hearing will be held on July 29, 2020, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Deidra Johnson at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

These proposed regulations are available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

Herman Robinson  
General Counsel

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Recovery Furnaces**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There are no estimated implementation costs or savings to state or local governmental units as a result of the proposed rule. The proposed rule change reduces the frequency of the performance tests on recovery furnaces from annually to every five years. Further, the rule change provides for certain exemptions from the total reduced sulfur limitations and the opacity standard for recovery furnaces.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There is no estimated increase or decrease in revenues to state or local governmental units as a result of the proposed rule.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed rule will decrease compliance costs for owners or operators of recovery furnaces located at pulp and paper mills obligated to comply with more stringent federal standards for particulate matter under 40 CFR 63 Subpart MM by reducing the frequency of the performance tests required by LAC 33:III.2301.D.4.b.ii from annually to once every five years.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There is no estimated effect on competition or employment in the public or private sector as a result of the proposed rule.

Herman Robinson  
General Counsel  
2006#014

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health  
Board of Nursing**

**License and Continuing Education Renewal  
(LAC 46:XLVII.3333 and 3355)**

Louisiana State Board of Nursing proposes revisions to §§3333 and 3355. These revisions will clarify the licensure renewal and continuing education processes. The changes denoted in §3333 will require the nurse to pay biennial licensure renewal fees. Previously, the LSBN required the nurse to pay renewal fees on an annual basis. The biennial renewal process does not apply to the licensees who hold an active RN multi-state license in a compact state other than Louisiana exercising their privilege to practice in Louisiana. Other minor changes to §3333 are as follows: change of name, change of address, delineation of on-line application(s), referencing §3355 for continuing education and inactive or retiring a license(s). A retired license is considered an inactive license, therefore individuals with a retired license are not authorized to practice. In §3335, the full-time and part-time nursing practice definitions have been removed and the inactive licensure status and the nursing practice definitions have been amended. Also, the continuing education nursing board approved contact hour changes from 15 hours to 30 hours in order to align with the biennial renewal. National Council of State Boards of

Nursing (NCSBN) recognizes practice hours along with board approved contact hours; therefore, a minimum of 900 practice hours during the two-year licensure period as verified by the employer will be accepted as demonstration of competency. If the continuing education requirements are not met, a warning will be issued for the first offense and the licensee may be prohibited from renewing his/her license for subsequent violations.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part XLVII. Nurses: Practical Nurses  
and Registered Nurses**

**Subpart 2. Registered Nurses**

**Chapter 33. General**

**Subchapter C. Registration and Registered Nurse  
Licensure**

**§3333. Renewal of License**

A. Every person holding a license to practice as a RN and/or an APRN, and intending to practice during the ensuing year, shall renew his or her license biennially prior to the expiration of his or her license. This does not apply to licensees who hold an active RN multistate license in a compact state other than Louisiana exercising their privilege to practice. The board shall furnish an online, electronic application for renewal of a license which is accessible to every person who holds a current license. The licensee shall complete the renewal application during the active renewal season and before January 1. Upon completion of the application and submission of any supporting documentation and the renewal fee as required under §3341, the board shall verify the accuracy of the application and issue to the licensee a license of renewal for the current year beginning February 1 and expiring January 31. Incomplete applications will not be processed. Applications submitted after December 31 shall be considered late and are subject to the fee as required under §3341 for late renewals. Failure to renew a license prior to expiration shall result in an inactive license and subjects the individual to forfeiture of the right to practice. Falsification and/or failure to disclose information on the renewal application may result in disciplinary action. An individual shall notify the board of:

1. change of address which includes a physical address and email address. Notify the office of the board by submitting changes in the individual's online, electronic account within 30 days if a change of physical and/or email address has occurred;

2. change of name. If a registered nurse/candidate for registration should change his/her name through marriage, divorce, religious order, or for any other reason, a request for a change of name and supporting documentation shall be submitted electronically to the board. Supporting documentation includes a copy of the marriage certificate, divorce document, or affidavit confirming change of name, and is required to execute a name change on board records.

B. Requirements of the licensee for renewal of license include:

1. completion of the online, electronic application, including statistical information;

2. ...

3. evidence of meeting the requirements regarding continuing education, in §3335 and

4. provide any/all information, documents, records, reports, evidence and/or items as requested by the board/board staff within 60 days from the date the application is submitted, or else the RN/APRN license shall be subject to immediate invalidation with change of status to inactive license and practice as a RN and/or APRN will no longer be legal.

C. An inactive or lapsed license may be reinstated by submitting a completed application, paying the required fee, and meeting all other relevant requirements, provided there is no evidence of violation of R.S. 37:911 et seq., §3331, or other administrative rules, or no allegations of acts or omissions which constitute grounds for disciplinary action as defined in R.S. 37:921 or §3405. Any person practicing as a RN or APRN during the time one's license is inactive or has lapsed is considered an illegal practitioner and is subject to the penalties provided for violation of this Part and will not be reinstated until the disciplinary action is resolved.

D. Licensees may submit an electronic application to inactivate or retire their license(s) at any time. A retired RN license is considered an inactive license. Individuals with a retired license are not authorized to practice.

1. A retired status license may be issued to any individual with an active unencumbered RN and/or APRN license who is not enrolled in an alternative to discipline program and is no longer engaged in the practice of nursing, provided said individual:

- a. completes an application provided by the board prior to the expiration of the active license;
- b. pays the required one-time fee as specified under §3341; and
- c. has no pending investigation and/or pending formal disciplinary action for alleged violation(s) of the board's rules and /or regulations.

2. - 3 ...

4. If at a future date, the licensee wishes to return to practice, the requirements for reinstatement including but not limited to those specified under §§3335.D, 4507.E.2, and/or 4507.F must be met.

5. ...

6. After the RN license is placed in retired status, the APRN license may also be placed in retired or inactive status with no fee if requested.

7. The APRN license may be placed in retired or inactive status with no fee while the RN license remains active provided the provisions in §3335.D.1.a and c are met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918 and 920.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 7:78 (March 1981), amended by the Department of Health and Hospitals, Board of Nursing, LR 16:1061 (December 1990), LR 23:962 (August 1997), LR 23:963 (August 1997), repromulgated LR 24:1293 (July 1998), amended LR 26:1443 (July 2000), LR 32:247 (February 2006), LR 35:1536 (August 2009), LR 37:3026 (October 2011), amended by the Department of Health, Board of Nursing LR 46:

### §3335. Continuing Education—Nursing Practice

A. Authority of the Louisiana State Board of Nursing (board). The board derives its authority to establish the requirement for evidence of activities which contribute to continued competence for relicensure to practice as a RN from R.S. 37:911, R.S. 37:918(4) and (12), and R.S. 37:920.E (1), (2), and (4).

## B. Definitions for the Purposes of §3335

\*\*\*

### *Continuing Education Activities—*

a. - c. ...

\*\*\*

*Inactive Licensure Status*—is recorded when the RN submits an application that is approved to inactivate a current RN license or is recorded when an individual declares another compact state, other than Louisiana, as the primary state of residence and holds an active multistate license in that other compact state with no discipline on the privilege to practice.

\*\*\*

*Nursing Practice*—the performance, with or without compensation, by an individual licensed by the board or otherwise formally educated as a registered nurse, of functions requiring specialized knowledge and skill derived from the biological, physical, and behavioral sciences [Nurse Practice Act, R.S. 37:913 (13) and (14)], which includes, but is not limited to, direct patient care, supervision, teaching, administration, consulting, quality assurance, and other positions which require use of nursing knowledge, judgment, and skill.

### *Part Time Nursing Practice—*Repealed.

\*\*\*

C. ...

1. License Renewal. For RN licensure renewal the applicant shall be in compliance with one of the following:

- a. a minimum of 30 board-approved contact hours of continuing education during the two-year licensure period; or
- b. a minimum of 900 practice hours during the two-year licensure period as verified by the employer on a form provided by the board; or
- c. initial RN licensure by examination or by endorsement during the previous calendar year; or
- d. current certification in a specialty area of nursing by a certifying body whose requirements have been approved by the board as being equivalent to or exceeding the above requirements.

2. - 2.d. ...

e. The individual presents evidence of an emergency or extenuating circumstances. At the time of filing an application for relicensure based on an exception, the licensee shall attach documentation of the exception.

3. Penalty for Non-Compliance

a. Initial, first-time failure to comply with continuing education requirements will result in a warning and may prohibit the licensee from renewing the license if the required CE documents are not provided.

b. Subsequent failure(s) to comply with continuing education requirements shall result in disciplinary action.

c. Falsification of data on the renewal or audit forms may result in disciplinary action.

D. Reinstatement of License

1. For reinstatement of a license which has lapsed, been suspended, has been inactive, or has been retired, for less than four years, the applicant shall provide documentation of a minimum of 15 board-approved contact hours of continuing education for each year of inactive

licensure status, or current licensure in another state and compliance with §3335.C.1.

2. For reinstatement of a license which has lapsed, been suspended, or has been inactive for four years or more and the applicant has not been actively engaged in the practice of nursing in another jurisdiction, the applicant shall provide documentation of one of the following:

a. ...

b. enrollment and completion of a bonafide nursing course in an approved school, which consists of a minimum of 160 hours of instructor planned, supervised instruction, including theory and clinical practice, in lieu of a refresher course; or

c. individualized remediation as determined by the board including an assessment of needs, a program of study designed to meet these needs, and an evaluation of the learning outcomes of the program. Such program shall be sponsored by an approved provider in an accredited post-secondary educational institution whose faculty hold masters degrees in nursing; or

d. successful completion of the NCLEX-RN examination during the current or previous calendar year. (Licensees who choose the option of taking the NCLEX-RN shall complete the required application, pay the established fee, and follow the current process for testing.)

E. - E.3. ...

4. review courses for certification in an approved area, such as ACLS, PALS, or advanced IV therapy, etc., provided they meet the criteria for approved offerings; and

E.5. - J.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:911, R.S. 37:918(4), (12), and R.S. 37:920.E.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 16:1058 (December 1990), amended LR 21:267 (March 1995), LR 21:804 (August 1995), LR 24:1293 (July 1998), LR 25:514 (March 1999), LR 26:83 (January 2000), LR 27:729 (May 2001), LR 34:440 (March 2008), amended by the Department of Health, Board of Nursing, LR 46:

#### **Family Impact Statement**

The proposed Rule is not anticipated to have an impact on family formation, stability, and autonomy as described in R.S. 49:972

#### **Poverty Impact Statement**

The proposed Rule is not anticipated to have an impact on poverty as defined by R.S. 49:973

#### **Small Business Analysis**

Pursuant to R.S. 49:965.6, methods for reduction of the impact on small business, as defined in the Regulatory Flexibility Act, have been considered when creating this proposed Rule.

#### **Provider Impact Statement**

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will not have an impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

### **Public Comments**

Interested persons may submit written comments on the proposed Rule to Karen C. Lyon, 17373 Perkins Road, Baton Rouge, LA 70810, or by facsimile to (225) 755-7585. All comments must be submitted by 5:00 p.m. on or before July 10, 2020.

Dr. Karen Lyon  
Executive Director

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: License and Continuing Education Renewal**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed rule changes will not result in any additional costs or savings to state or local governmental units other than one-time publication costs for the LA State Board of Nursing (LSBN), which total approximately \$350 in FY 20.

The proposed rule changes make revisions to Chapter 33, Sections 3333 and 3335. These revisions will clarify the licensure renewal and continuing education processes. The changes denoted in §3333 will require nurses to pay biennial licensure renewal fees to align with present practice. However, the biennial renewal process does not apply to the licensees who hold an active RN multi-state license in a compact state other than Louisiana exercising their privilege to practice in Louisiana. Other minor changes to §3333 are as follows: revisions to the change of name and address processes, delineation of on-line application(s), referencing §3335 for continuing education and inactive or retiring a license(s). A retired license is considered an inactive license, therefore individuals with a retired license are not authorized to practice.

In §3335, the full-time and part-time nursing practice definitions have been removed and the inactive licensure status and the nursing practice definitions have been amended. Furthermore, the continuing education nursing board approved contact hour changes from 15 hours annually to 30 hours every two years in order to align with the biennial renewal, but also allows a minimum of 900 practice hours during the 2-year licensure period as verified by the employer will be accepted as demonstration of competency.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule changes will not affect revenue collections of state or local governmental units. Provisions of the rule amendments providing for biennial license renewals will not affect revenue collections associated with renewals, as the language change aligns with present practice for the LSBN.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed rule changes clarify the licensure renewal and continuing education processes. Significant changes include revisions to the continuing education, from 15 hours annually to 30 hours every two years to align with the biennial licensure renewal. Furthermore, the proposed rule changes also allow a minimum of 900 practice hours during the 2-year licensure period as verified by the employer will be accepted as demonstration of competency in lieu of 30 hours of continuing education, which may benefit some nurses and result in a savings on continuing education costs. Furthermore, the proposed rule changes require nurses to pay biennial licensure renewal fees to align with present practice.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)

The proposed rule changes will not affect competition or employment.

Dr. Karen Lyon  
Executive Director  
2006#025

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health  
Bureau of Health Services Financing**

**Dental Benefits Prepaid Ambulatory Health Plan  
(LAC 50:I.Chapter 21)**

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:I.Chapter 21 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health, Bureau of Health Services Financing proposes to amend the provisions governing the dental benefits prepaid ambulatory health plan in order to allow for more than one dental benefits plan manager to service Medicaid enrollees and to allow for the department to contract with a vendor for enrollment broker services for member enrollment into one of the available plans.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part 1. Administration**

**Subpart 3. Managed Care for Physical and Behavioral Health**

**Chapter 21. Dental Benefits Prepaid Ambulatory Health Plan**

**§2101. General Provisions**

A. Effective May 1, 2014, the Department of Health, Bureau of Health Services Financing shall adopt provisions to establish a comprehensive system of delivery for dental services covered under the Medicaid Program. The dental benefits plan shall be administered under the authority of a 1915(b) waiver by implementing a prepaid ambulatory health plan (PAHP) which shall be responsible for the necessary operational and administrative functions to ensure adequate service coordination and delivery.

B. All Medicaid recipients except those residing in intermediate care facilities for individuals with intellectual disabilities (ICFs/IID) that are receiving dental services through the fee-for-service system will receive dental services administered by a dental benefit plan manager (DBPM).

1. The number of DBPMs shall be no more than required to meet the Medicaid enrollee capacity requirements and ensure choice for Medicaid recipients.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:784 (April 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 46:

**§2103. Participation Requirements**

- A. ...
- B. A DBPM must:
  - 1. -5. ...

6. be without an actual or perceived conflict of interest that would interfere or give the appearance of impropriety or of interfering with the contractual duties and obligations under this contract or any other contract with LDH, and any and all applicable LDH written policies. Conflict of interest shall include, but is not limited to, the contractor serving, as the Medicaid fiscal intermediary contractor for LDH;

7. be awarded a contract with LDH, and successfully completed the readiness review prior to the start date of operations; and

- B.8. - I.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:784 (April 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 46:

**§2105. Prepaid Ambulatory Health Plan Responsibilities**

- A. - A.1. ...

2. A DBPM shall possess the expertise and resources to ensure the delivery of dental benefits and services to members and to assist in the coordination of covered dental services, as specified in the terms of the contract.

3. A DBPM shall have written policies and procedures governing its operation as specified in the contract and department issued guidance.

4. A DBPM shall not discriminate against enrollees on the basis of race, gender, color, national origin, age, health status or need for dental services, and shall not use any policy or practice that has the effect of discriminating on any such basis.

5. The DBPM shall abide by all enrollment and disenrollment policy and procedures as outlined in the contract developed by the department.

B. The department will contract with an enrollment broker who will be responsible for the enrollment and disenrollment process for DBPM participants. The enrollment broker shall be:

1. the primary contact for enrollees regarding the DBPM enrollment and disenrollment process, and shall assist the recipient to enroll in a DBPM;

2. the only authorized entity, other than the department, to assist an enrollee recipient in the selection of a DBPM; and

3. responsible for notifying all DBPM members of their enrollment and disenrollment rights and responsibilities within the timeframe specified in the contract.

C. Enrollment Period. The annual enrollment of a DBPM member shall be for a period of up to 12 months from the date of enrollment, contingent upon his/her continued Medicaid eligibility. A member shall remain enrolled in the DBPM until:

1. LDH or its enrollment broker approves the member's written, electronic or oral request to disenroll or transfer to another DBPM for cause; or

2. the annual open enrollment period or after the lock-in period; or

3. the member becomes ineligible for Medicaid and/or the DBPM program.

#### D. Automatic Assignment Process

1. LDH shall establish an auto-assignment process for potential enrollees who do not request enrollment in a specified DBPM, or who cannot be enrolled into the requested DBPM for reasons including, but not limited to, the DBPM having reached its enrollment capacity limit or as a result of LDH-initiated sanctions.

2. DBPM automatic assignments shall take into consideration factors including, but not limited to:

a. assigning members of family units to the same DBPM. If multiple DBPM linkages exist within the household, the enrollee shall be enrolled to the DBPM of the youngest household enrollee;

b. existing provider-enrollee relationships; or

c. previous DBPM-enrollee relationship.

3. Auto-assignments on any basis other than household enrollment in DBPM will not be made to a DBPM whose enrollee share is at or above 60 percent of the total statewide membership.

#### E. Voluntary Selection of DBPM for New Enrollees

1. Potential enrollees shall be given an opportunity to choose a DBPM at the time of application. Once the potential enrollee is determined eligible, their choice of DBPM shall be transmitted to the enrollment broker.

2. During the 90 days following the date of the enrollee's initial enrollment into a DBPM, the enrollee shall be allowed to request disenrollment without cause by submitting an oral or written request to the enrollment broker.

3. All eligible enrollees shall be provided an annual open enrollment period at least once every 12 months thereafter.

4. All enrollees shall be given the opportunity to choose a DBPM at the start of a new DBPM contract either through the regularly scheduled open enrollment period or special enrollment period.

#### F. Annual Open Enrollment

1. The department will provide an opportunity for all DBPM members to retain or select a new DBPM during an annual open enrollment period. The enrollment broker will mail a re-enrollment offer prior to each annual enrollment period to the DBPM member. Each DBPM member shall receive information and the offer of assistance with making informed choices about the participating DBPMs and the availability of choice counseling.

2. The enrollment broker shall provide the individual with information on each DBPM from which they may select.

3. During the open enrollment period, each Medicaid enrollee shall be given 60 calendar days to either remain in their existing DBPM or select a new DBPM.

#### G. Selection or Automatic Assignment of a Primary Dental Provider for Mandatory Populations for All Covered Services

1. The DBPM is responsible to develop a primary dental provider (PDP) automatic assignment methodology in accordance with the department's requirements for the assignment of a PDP to an enrollee who:

a. does not make a PDP selection within 30 calendar days of enrollment to the DBPM;

c. selects a PDP within the DBPM that has reached their maximum physician/patient ratio; or

d. selects a PDP within the DBPM that has restrictions/limitations (e.g., pediatric only practice).

2. Assignment shall be made to a PDP with whom the enrollee has a provider-beneficiary relationship. If there is no provider-beneficiary relationship, the enrollee may be auto-assigned to a provider who is the assigned PDP for a household family member enrolled in the DBPM. If other household family members do not have an assigned PDP, auto-assignment shall be made to a provider with whom a family member has a provider-beneficiary relationship.

3. If there is no enrollee or household family provider-beneficiary relationship, enrollees shall be auto-assigned to a PDP, based on criteria such as age, geographic proximity, and spoken languages.

4. An enrollee shall be allowed to request at any time, verbally or in writing, to change his or her PDP and the DBPM must agree to grant the request.

#### H. Disenrollment and Change of Dental Benefit Plan Manager

1. An enrollee may request disenrollment from the DBPM as follows:

a. for cause, at any time. The following circumstances are cause for disenrollment:

i. the DBPM does not, because of moral or religious objections, cover the service the enrollee seeks;

ii. the enrollee needs related services to be performed at the same time; not all related services are available within the DBPM and the enrollee's PDP or another provider determines that receiving the services separately would subject the enrollee to unnecessary risk;

iii. the contract between the DBPM and LDH is terminated;

iv. poor quality of care rendered by the DBPM as determined by LDH;

v. lack of access to DBPM covered services as determined by LDH; or

vi. any other reason deemed to be valid by LDH and/or its agent; or

b. without cause for the following reasons:

i. During the ninety 90 days following the date of the beneficiary's initial enrollment into the DBPM or during the 90 days following the date the enrollment broker sends the beneficiary notice of that enrollment, whichever is later;

ii. upon automatic re-enrollment under 42 CFR §438.56(g), if a temporary loss of Medicaid eligibility has caused the beneficiary to miss the annual open enrollment opportunity;

iii. when LDH imposes the intermediate sanction provisions specified in 42 CFR §438.702(a)(3); or

iv. after LDH notifies the DBPM that it intends to terminate the contract as provided by 42 CFR §438.722.

#### I. Involuntary Disenrollment

1. The DBPM may request involuntary disenrollment of an enrollee if the enrollee's utilization of services constitutes fraud, waste, and/or abuse such as misusing or loaning the enrollee's ID card to another person to obtain services. In such case the DBPM shall report the event to LDH and the Medicaid Fraud Control Unit (MFCU).

2. The DBPM shall submit disenrollment requests to the enrollment broker, in a format and manner to be determined by LDH.

3. The DBPM shall ensure that involuntary disenrollment documents are maintained in an identifiable enrollee record.

4. The DBPM shall not request disenrollment because of an adverse change in physical or mental health status or because of the enrollee's health diagnosis, utilization of medical services, diminished mental capacity, preexisting medical condition, refusal of medical care or diagnostic testing, attempt to exercise his/her rights under the DBPM's grievance system, or attempt to exercise his/her right to change, for cause, the primary care provider that he/she has chosen or been assigned. Further, in accordance with 42 CFR §438.56, the DBPM shall not request disenrollment because of an enrollee's uncooperative or disruptive behavior resulting from his or her special needs, except when his or her continued enrollment seriously impairs the DBPM's ability to furnish services to either this particular enrollee or other enrollees.

5. The DBPM shall not request disenrollment for reasons other than those stated in the contract with LDH. In accordance with 42 CFR §438.56(b)(3), LDH shall ensure that the DBPM is not requesting disenrollment for other reasons by reviewing and rendering decisions on all disenrollment request forms submitted to the enrollment broker.

6. All disenrollment requests shall be reviewed on a case-by-case basis and the final decision is at the sole discretion of LDH or its designee. All decisions are final and not subject to the dispute resolution process by the DBPM.

7. When the DBPM's request for involuntary disenrollment is approved by LDH, the DBPM shall notify the enrollee in writing of the requested disenrollment. The notice shall include:

- a. the reason for the disenrollment;
- b. the effective date;
- c. an instruction that the enrollee choose a new DBPM; and
- d. a statement that if the enrollee disagrees with the decision to disenroll, the enrollee has a right to submit a request for a state fair hearing.

8. Until the enrollee is disenrolled by the enrollment broker, the DBPM shall continue to be responsible for the provision of all DBPM covered services to the enrollee.

J. A DBPM shall be required to provide service authorization, referrals, coordination, and/or assistance in scheduling the covered dental services as specified in the terms of the contract.

1. - 2. Repealed.

K. The DBPM shall establish and implement a quality assessment and performance improvement program as specified in the terms of the contract and department issued guidance.

L. A DBPM shall develop and maintain a utilization management program including policies and procedures with defined structures and processes as specified in the terms of the contract and department issued guides.

M. The DBPM must have administrative and management arrangements or procedures, including a mandatory compliance plan, that are designed to guard

against fraud and abuse. The DBPM shall comply with all state and federal laws and regulations relating to fraud, abuse, and waste in the Medicaid programs as well all requirements set forth in the contract and department issued guidance.

1. - 1b. Repealed.

N. A DBPM shall collect data on enrollees and provider characteristics and on services furnished to members through an encounter data system as specified in the contract and all department issued guidance.

1. - 8. Repealed.

O. A DBPM shall be responsible for conducting routine provider monitoring to ensure:

1. continued access to dental care for eligible Medicaid recipients; and

2. compliance with departmental and contract requirements.

3. - 16. Repealed.

P. A DBPM shall not engage the services of a provider who is in non-payment status with the department or is excluded from participation in federal health care programs (i.e., Medicare, Medicaid, CHIP, etc.).

1. - 2. Repealed.

Q. Dental records shall be maintained in accordance with the terms and conditions of the contract. These records shall be safeguarded in such a manner as to protect confidentiality and avoid inappropriate disclosure according to federal and state law.

R. The DBPM shall provide both member and provider services in accordance with the terms of the contract and department issued guides.

1. The DBPM shall submit provider manuals and provider directory to the department for approval prior to distribution, annually and subsequent to any revisions.

a. The DBPM must provide a minimum of 60 days' notice to the department of any proposed material changes to the member handbooks and/or provider manuals.

b. After approval has been received from the department, the DBPM must provide a minimum of 30 days' notice to the members and/or providers of any proposed material changes to the required member education materials and/or provider manuals.

S. Member education materials shall include, but not be limited to:

1. a welcome packet including, but not limited to:

a. a welcome letter highlighting major program features and contact information for the DBPM; and

b. a provider directory when specifically requested by the member (also must be available in searchable format on-line);

2. member rights and protections as specified in 42 CFR §438.100 and the DBPM's contract with the department including, but not limited to:

a. a member's right to change providers within the DBPM;

b. any restrictions on the member's freedom of choice among DBPM providers; and

c. a member's right to refuse to undergo any dental service, diagnoses, or treatment or to accept any service provided by the DBPM if the member objects (or in the case of a child, if the parent or guardian objects) on religious grounds;

3. member responsibilities, appropriate and inappropriate behavior, and any other information deemed essential by the DBPM or the department including, but not limited to reporting to the department's Medicaid Customer Service Unit if the member has or obtains another health insurance policy, including employer sponsored insurance; and

4. the amount, duration, and scope of benefits available under the DBPM's contract with the department in sufficient detail to ensure that members understand the benefits to which they are entitled, including, but not limited to:

- a. information about oral health education and promotion programs;
- b. the procedures for obtaining benefits, including prior authorization requirements and benefit limits;
- c. how members may obtain benefits, including emergency services, from out-of-network providers;
- d. the policy on referrals for specialty care; and
- e. the extent to which, and how, after-hour services are provided;

5. information to call the Medicaid Customer Service Unit toll-free telephone number or visit a local Medicaid eligibility office to report changes in parish of residence, mailing address or family size changes;

6. a description of the DBPM's member services and the toll-free telephone number, fax telephone number, e-mail address and mailing address to contact DBPM's member services department;

7. instructions on how to request multi-lingual interpretation and translation services when needed at no cost to the member. This information shall be included in all versions of the handbook in English, Spanish and Vietnamese; and

8. grievance, appeal and state fair hearing procedures and time frames as described in 42 CFR §438.400 through §438.424 and in the DBPM's contract with the department.

T. The provider manual shall include but not be limited to:

1. description of the DBPM;
2. core dental benefits and services the DBPM must provide;
3. emergency dental service responsibilities;
4. policies and procedures that cover the provider complaint system. This information shall include, but not be limited to:
  - a. specific instructions regarding how to contact the DBPM to file a provider complaint; and
  - b. which individual(s) has the authority to review a provider complaint;

5. information about the DBPM's grievance system, that the provider may file a grievance or appeal on behalf of the member with the member's written consent, the time frames and requirements, the availability of assistance in filing, the toll-free telephone numbers and the member's right to request continuation of services while utilizing the grievance system;

6. medical necessity standards as defined by LDH and practice guidelines;

7. practice protocols, including guidelines pertaining to the treatment of chronic and complex conditions;

8. primary care dentist responsibilities;

9. other provider responsibilities under the subcontract with the DBPM;

10. prior authorization and referral procedures;

11. dental records standards;

12. claims submission protocols and standards, including instructions and all information necessary for a clean and complete claim and samples of clean and complete claims;

13. DBPM prompt pay requirements;

14. notice that provider complaints regarding claims payment shall be sent to the DBPM;

15. quality performance requirements; and

16. provider rights and responsibilities.

U. The provider directory for members shall be developed in two formats:

1. a hard copy directory for members and, upon request, potential members; and

2. a web-based online directory for members and the public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:784 (April 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 46:

#### **§2109. Benefits and Services**

A. - D. ...

E. Utilization Management

1. The DBPM shall develop and maintain policies and procedures with defined structures and processes for a utilization management (UM) program that incorporates utilization review and service authorization, which include, at minimum, procedures to evaluate medical necessity and the process used to review and approve the provision of dental services. The DBPM shall submit an electronic copy of the UM policies and procedures to LDH for written approval within thirty calendar days from the date the contract is signed by the DBPM, but no later than prior to the readiness review, annually thereafter, and prior to any revisions.

2. - 10. ...

11. The DBPM shall submit written policies and processes for LDH approval, within thirty calendar days, but no later than prior to the readiness review, of the contract signed by the DBPM, on how the core dental benefits and services the DBPM provides ensure:

11.a. - 17. ...

18. The DBPM shall report fraud and abuse information identified through the UM program to LDH's Program Integrity Unit.

19. - 19.g. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:786 (April 2014), amended by the Department of Health, Bureau of Health Services Financing, LR:

#### **Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability or autonomy as described in R.S.

49:972 as it is expected have a positive effect as the availability of multiple plans will provide families with a greater choice of available providers and services.

#### **Poverty Impact Statement**

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have a positive impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 as it is expected have a positive effect as the availability of multiple plans will provide families with a greater choice of available providers and services.

#### **Small Business Analysis**

In compliance with Act 820 of the 2008 Regular Session of the Louisiana Legislature, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule will have a no impact on small businesses, as described in R.S. 49:965.2 et seq.

#### **Provider Impact Statement**

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

#### **Public Comments**

Interested persons may submit written comments to Ruth Johnson, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. Johnson is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on July 30, 2020.

#### **Public Hearing**

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on July 10, 2020. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on July 30, 2020 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after July 10, 2020. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage, which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Dr. Courtney N. Phillips  
Secretary

## **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Dental Benefits Prepaid Ambulatory Health Plan**

### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will result in estimated state programmatic costs of approximately \$1,242 for FY 19-20, \$3,126,849 for FY 20-21 and \$2,307,825 for FY 21-22. It is anticipated that \$2,484 (\$1,242 SGF and \$1,242 FED) will be expended in FY 19-20 for the state's administrative expense for promulgation of this proposed rule and the final rule. In addition, if the state contracts with more than one dental benefit management plan, this is expected to increase current administrative costs of the program.

### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed Rule will increase federal revenue collections by approximately \$1,242 for FY 19-20, \$3,126,849 for FY 20-21 and \$2,307,825 for FY 21-22. It is anticipated that \$1,242 will be collected in FY 19-20 for the federal share of the expense for promulgation of this proposed rule and the final rule.

### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

This proposed rule amends the provisions governing the dental benefits prepaid ambulatory health plan in order to allow for more than one dental benefits plan manager to service Medicaid enrollees and to allow for the department to contract with a vendor for enrollment broker services for member enrollment into one of the available plans. This proposed Rule will be beneficial to recipients by increasing the availability of plans, which will provide families with a greater choice of available providers and services as it will allow for multiple dental benefits plan managers. It is anticipated that implementation of this proposed rule will result in programmatic costs to the Medicaid program of \$6,253,698 in FY 20-21 and \$4,615,650 in FY 21-22. In addition, if the state contracts with more than one dental benefit management plan, this is expected to increase current administrative costs of the program.

### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

This rule may have a positive effect on competition and employment, as it will increase the number of dental benefits plan managers.

Ruth Johnson  
Medicaid Executive Director  
2005#030

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

## **NOTICE OF INTENT**

### **Department of Public Safety and Corrections Office of State Police**

Issuance of Concealed Handgun Permits  
(LAC 55:I.1307)

In accordance with the provisions of R.S. 40:1379.1 relative to the authority of Department of Public Safety and Corrections to promulgate and enforce rules pursuant to the issuance of concealed handgun permits, Department of Public Safety and Corrections, Office of State Police hereby

proposes to amend rules under Title 55 Part I §1307 in relation to the alternative submission of online applications by online or electronic certification in lieu of a sworn and notarized paper submission.

## **Title 55**

### **Public Safety**

#### **Part I. State Police**

#### **Chapter 13. Issuance of Concealed Handgun Permits**

##### **§1307. Applications and Permit**

A. - B.14. ...

15. When an application is submitted online, any document otherwise required to be subscribed or acknowledged before a notary public shall include an online certification in accordance with R.S. 9:2621 in lieu of the notarized sworn subscription or acknowledgement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1379.1, 40:1379.3, 40:1381, and 40:1382.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 22:846 (September 1996), amended LR 28:1483 (June 2002), LR 38:1281 (May 2012), repromulgated LR 38:1415 (June 2012), amended LR 43:673 (April 2017), LR 45:583 (April 2019), LR 46:

##### **Family Impact Statement**

The Effect of this Rule on the Stability of the Family. This Rule will have no effect on the stability of the family.

The Effect of this Rule on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. This Rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

The Effect of this Rule on the Functioning of the Family. This rule will have no effect on the functioning of the family. The Effect of this Rule on Family Earnings and Family Budget. This rule will have no effect on family earning and family budget.

The Effect of this Rule on the Behavior and Personal Responsibility of Children. This Rule will have no effect on the behavior and personal responsibility of children.

The Effect of this Rule on the Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rules. This Rule will have no effect on the ability of the family or local government to perform the function as contained in the proposed rules.

##### **Poverty Impact Statement**

The proposed Rule should not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973.B. In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

##### **Small Business Analysis**

In compliance with Act 820 of the 2008 Regular Legislative Session of the Louisiana Legislature, the economics of this proposed Rule on small business has been considered. It is anticipated that this proposed Rule will have a minute adverse impact on small businesses, specific to

notaries through the loss of revenues through concealed handgun permit applicants that choose to apply online.

##### **Provider Impact Statement**

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

##### **Public Comments**

Interested persons may submit written comments to Connor K. Junkin, Attorney, Louisiana State Police, 7979 Independence Blvd., Suite 307, Baton Rouge, Louisiana 70806. He is responsible for responding to inquiries regarding this proposed Rule.

##### **Public Hearing**

Requests for a public hearing must be submitted in writing via written correspondence. Requests for a public hearing shall be sent to Connor.Junkin@la.gov or to Connor K. Junkin, Attorney, Louisiana State Police, 7979 Independence Blvd., Suite 307, Baton Rouge, Louisiana 70806. The deadline for submitting a request for public hearing is July 10, 2020. All requests for a public hearing sent via written correspondence must be received by July 10, 2020.

#### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

##### **RULE TITLE: Issuance of Concealed Handgun Permits**

##### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed rule will increase expenditures in the Bureau of Criminal Identification and Information – LA Criminal Justice Systems (BCII-LCJIS) within State Police by \$3,750 SGR in FY 20-21 for data programming. The proposed rule amends the rules for concealed handgun permits by allowing online applications to include an online certification in lieu of a notarized sworn subscription or acknowledgement. The proposed rule does not impact local governmental units.

##### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule will have no effect on revenue collections of state or local governmental units.

##### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed rule removes the requirement that online concealed handgun application forms be notarized, which directly affects applicants that no longer need to pay notarization fees. In FY 19, the Department of Public Safety, Public Safety Services reports 20,133 new or renewal permits and 5,552 life time permits were issued. While the number of permits issued on an annual basis varies due to external factors, applicants that apply online will realize cost savings as a result of not requiring notarization.

The proposed rule will result in an indeterminable loss of income to small businesses and individuals that provide notarial services throughout the state as a result of not realizing revenue from notarization fees for concealed handgun permit applications. The number of individuals that will apply for concealed handgun permits online is indeterminable. Due to the fact that individual notaries in Louisiana charge different

rates for notarization services, the exact revenue impact to notaries is indeterminable.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed law may result in an indeterminable impact on competition and employment for small businesses and individuals providing notarial services in the state, dependent upon the volume of concealed handgun permit applicants that transition to online permit applications.

Capt Mark Richards  
Director  
2006#018

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Wildlife and Fisheries  
Wildlife and Fisheries Commission**

Alligators  
(LAC 76:V.701)

The Wildlife and Fisheries Commission does hereby give notice of its intent to extend the alligator hunting season an additional month and removes the deadline to pick up tags prior to the start of the hunting season for landowners, land managers, and hunters.

**Title 76  
WILDLIFE AND FISHERIES**

**Part V. Wild Quadrupeds and Wild Birds**

**Chapter 7. Alligators**

**§701. Alligator Regulations**

A. - A.5.h. ...

6. Alligator Hide Tag Procurement and Tagging Requirements

a. Alligator hide tags may be obtained as follows and only to properly licensed alligator hunters and nongame quadruped breeders.

b. Landowners, Land Managers and Hunters. Upon application to the department on forms provided for tag issuance, applications for alligator tag allotments will be taken annually beginning June 1. For alligator hunters submitting applications with new/additional properties, applications are due by August 20; for alligator hunters submitting an application for property previously hunted, applications are due by the day before the season opens.

A.6.b.i. - A.6.f.vii. ...

7. Open Season, Open Areas, and Quota

a. Open seasons are as follows.

i. The state shall be divided into the east and west alligator hunting zones by the following boundary: beginning at the southwestern most part of Point Au Fer Island thence north along the western boundary of Terrebonne Parish to the Atchafalaya River, thence north along the Atchafalaya River to the East Atchafalaya Protection Levee, thence north along the East Atchafalaya Protection Levee, to Interstate 10, thence east along Interstate 10 to Interstate 12, thence east along Interstate 12 to Interstate 55, thence north along Interstate 55 to the Mississippi state line. The season for taking alligators in the wild shall open on the last Wednesday of August in the east zone and the first Wednesday of September in the west zone

and will remain open for 60 days thereafter in each zone. The secretary shall be authorized to close, extend, delay, or reopen the season as biologically justifiable.

A.7.a.ii. - A.18.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115, R.S. 56:259, R.S. 56:262, R.S. 56:263 and R.S. 56:280.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 16:1070 (December 1990), amended LR 17:892 (September 1991), LR 19:215 (February 1993), LR 20:321 (March 1994), LR 26:1492 (July 2000), LR 28:1996 (September 2002), LR 30:2338 (October 2004), LR 30:2878 (December 2004), LR 31:2267 (September 2005), LR 33:677 (April 2007), LR 35:690 (April 2009), LR 37:2421 (August 2011), LR 39:2291 (August 2013), LR 42:909 (June 2016), LR 43:90 (January 2017), LR 46:50 (January 2020), LR 46:

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent and the final Rule, including but not limited to, the filing of the Fiscal and Economic Impact Statement, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

**Family Impact Statement**

In accordance with Act 1183 of 1999 Regular Session of the Louisiana Legislature, the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent. This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

**Poverty Impact Statement**

The proposed Rule will have no impact on poverty as described in R.S. 49:973.

**Small Business Analysis**

This proposed Rule has no known impact on small businesses as described in R.S. 49:965.2 through R.S. 49:965.8.

**Provider Impact Statement**

This proposed Rule has no known impact on providers as described in HCR 170 of 2014.

**Public Comments**

Interested persons may submit written comments relative to the proposed Rule to Jeb Linscombe, Biologist Program Manager, Department of Wildlife and Fisheries, 200 Dulles Drive, Lafayette, LA 70506 or [jlinscombe@wlf.la.gov](mailto:jlinscombe@wlf.la.gov), no later than 4:30 p.m., Thursday, July 2, 2020.

William Hogan  
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Alligators**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There is no impact on expenditures of the Department of Wildlife and Fisheries.

The proposed rule change increases the length of alligator trapping season from 30 to 60 days. It removes a statement that says alligator tags will not be issued after the opening day of alligator trapping season.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change is anticipated to have no impact on revenue collections of the state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change increasing the length of the wild alligator harvesting season from 30 to 60 days is expected to benefit persons who wish to pursue alligators for recreational purposes, as well as hunting guides and landowners who possess alligator habitat. It will provide additional opportunities for participation and add flexibility in the timing of such activities. It will not affect the number of alligators harvested, a number which will continue to be determined by biological factors.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment as a result of the proposed rule changes.

Bryan McClinton  
Undersecretary  
2006#012

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Wildlife and Fisheries  
Wildlife and Fisheries Commission**

**Reef Fish—Harvest Regulations  
(LAC 76:VII.335)**

The Wildlife and Fisheries Commission does hereby give notice of intent to amend a Rule (LAC 76:VII.335) modifying existing reef fish harvest regulations. Proposed changes modify the trip limit for the commercial harvest of greater amberjack and provide authority to the secretary of the Department to modify any commercial trip limits for a reef fish species or species group when notified by the Regional Administrator of NOAA Fisheries that such a change has been made in adjacent federal waters. Authority for amendment of this Rule is included in the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 56:6(25)(a), 56:320.2, 56:326.1, and 56:326.3 to the Wildlife and Fisheries Commission.

**Title 76**

**WILDLIFE AND FISHERIES**

**Part VII. Fish and Other Aquatic Life**

**Chapter 3. Saltwater Sport and Commercial Fishery  
§335. Reef Fish—Harvest Regulations**

A. - D.7. ...

8. Commercial trip limits shall include those limits listed below. For the purposes of this rule, a trip is defined as a fishing trip, regardless of the number of days' duration, that begins with departure from a dock, berth, beach, seawall or ramp and that terminates with return to a dock, berth, beach, seawall or ramp. The secretary of the Department of Wildlife and Fisheries is authorized, upon notification to the chairman of the Wildlife and Fisheries Commission, to adjust any trip limit for any commercially harvested reef fish species or species group when notified by the Regional Administrator of NOAA Fisheries that an adjustment has been made to the trip limit for a species or species group in adjacent federal waters.

Species or Group	Trip Limit
a. Gray Triggerfish	16 fish
b. Greater Amberjack	1,000 pounds gutted weight

E. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.56:6(25)(a), R.S. 56:320.2(C), R.S. 56:326.1 and R.S. 56:326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 16:539 (June 1990), amended LR 19:1442 (November 1993), LR 20:797 (July 1994), LR 21:1267 (November 1995), LR 22:860 (September 1996), LR 24:1138 (June 1998), LR 24:1139 (June 1998), LR 24:1972 (October 1998), LR 26:793 (April 2000), LR 26:1505 (July 2000), LR 26:2833 (December 2000), LR 31:3166 (December 2005), LR 33:1156 (June 2007), repromulgated LR 33:1397 (July 2007), amended LR 34:2209 (October 2008), LR 34:2682 (December 2008), LR 36:1791 (August 2010), LR 38:2383 (September 2012), LR 39:330 (February 2013), LR 40:95 (January 2014), repromulgated LR 40:1116 (June 2014), amended LR 40:2281 (November 2014), LR 42:908 (June 2016), repromulgated LR 43:89 (January 2017), amended LR 44:1458 (August 2018), LR 46:705 (May 2020), LR 46:

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the Commission to promulgate and effectuate this notice of intent and the final rule, including but not limited to, the filing of the fiscal and economic impact statements, the filing of the notice of intent and final rule and the preparation of reports and correspondence to other agencies of government.

**Family Impact Statement**

In accordance with Act 1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issue its Family Impact Statement in connection with the preceding Notice of Intent. This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

**Poverty Impact Statement**

This proposed Rule will have no impact on poverty as described in R.S. 49:973.

**Small Business Analysis**

This proposed Rule has no known impact on small businesses as described in R.S. 49:965.2 through R.S. 49:965.8.

**Provider Impact Statement**

This proposed Rule has no known impact on providers as described in HCR 170 of 2014.

**Public Comments**

Interested persons may submit comments relative to the proposed Rule to Jason Adriance, Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000, or via e-mail to jadriance@wlf.la.gov prior to Thursday, August 6, 2020.

William Hogan  
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Reef Fish—Harvest Regulations**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no impact on expenditures of the Department of Wildlife and Fisheries (LDWF) or local governmental units associated with the proposed rule altering the trip limit for greater amberjack. The rule changes the trip limit for greater amberjack caught commercially from 1,500 pounds per trip to 1,000 per trip.

The proposed rule also gives the Secretary of Wildlife and Fisheries the authority to alter the trip limit for any commercially harvested reef fish or species group when notified that the Regional Administrator of National Oceanographic and Atmospheric Administration (NOAA) Fisheries that an adjustment has been made to the trip limit for a species or species group in adjacent federal waters.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change is anticipated to have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed lower trip limit to 1,000 pounds per trip for greater amberjack caught commercially, will have a negative impact for commercial fishers. LDWF estimates an annual loss to fishers of \$26,000.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change is anticipated to have a minor negative impact on receipts or income in Louisiana.

Bryan McClinton  
Undersecretary  
2006#011

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Workforce Commission  
Office of Unemployment Insurance Administration**

**Employer Requirement to Provide Notification of the  
Availability of Unemployment Insurance Benefits to Each  
Individual Employee at the Time of Separation  
(LAC 40:IV.381)**

Under the authority of and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., specifically R.S. 49:953(C)(1), and through the authority granted in R.S. 36:304, notice is hereby given that the Workforce Commission proposes to adopt LAC 40:IV.381. The proposed Rule sets forth the requirement that employers notify employees of the availability of unemployment insurance benefits upon separation, and details the information that must be included in the notification, as well as the methods of notification. The proposed Rule also advises employers of where a form that fulfills the requirements can be found on the Workforce Commission's website. The proposed Rule is one of the requirements for the receipt of funding by the Workforce Commission under the Families First Coronavirus Response Act, Pub. L. 116-127, more specifically, Division D of the Emergency Unemployment Insurance Stabilization and Access Act of 2020. The proposed Rule is being promulgated in order to continue the provisions of the April 23, 2020 Emergency Rule.

**Title 40**

**LABOR AND EMPLOYMENT**

**Part IV. Employment Security**

**Subpart 1. Board of Review**

**Chapter 3. Employment Security Law**

**§381. Employer Requirement to Provide Notification of the Availability of Unemployment Insurance Benefits to Each Individual Employee at the Time of Separation**

A. Pursuant to R.S. 23:1621, employers are required to provide notification of the availability of Unemployment Insurance Benefits (UI). This Rule prescribes an additional requirement that employers shall notify each individual employee at the time of separation from employment of the following.

1. Employees may file a UI claim in the first week that employment stops or work hours are reduced.

2. Employees shall be informed that a UI claim may be filed by phone or online stating:

a. to file a UI claim by phone, call: 1-866-783-5567;

b. to file a UI claim online, visit: [www.louisianaworks.net/hire](http://www.louisianaworks.net/hire);

c. if you have questions about the status of your UI claim, you can call the LWC at 866-783-5567 or visit [www.louisianaworks.net/hire](http://www.louisianaworks.net/hire).

3. Employees shall be given the Workforce Commission's toll free phone number and web address for filing and assistance with unemployment insurance claims.

4. Employees shall be informed of the need to provide the Workforce Commission with the following information in order for the claim to be processed:

a. full legal name;

b. social security number; and

c. authorization to work (if not a U.S. Citizen or resident).

B. Employers can find a form containing this required information at [www.laworks.net/Downloads](http://www.laworks.net/Downloads).

C. Employers shall convey this information at the time of separation. This information shall be provided to employees in writing either via flyer, letter, email, or text message.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1591, R.S. 23:1472(19)(a)(iii), R.S. 23:1621, and R.S. 36:310.

HISTORICAL NOTE: Promulgated by the Louisiana Workforce Commission, Office of Unemployment Insurance Administration, LR 46:

**Family Impact Statement**

Implementation of this Rule should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on the six criteria set forth in R.S. 49:972(B).

In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;

2. the effect on early childhood development and preschool through postsecondary education development;

3. the effect on employment and workforce development;

4. the effect on taxes and tax credits;

5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

**Poverty Impact Statement**

This Rule will have no known or foreseeable impact on any child, individual or family as described in R.S. 49:973.

**Small Business Analysis**

Pursuant to R.S. 49:956.6, methods for reduction of the impact on small business, as defined in the Regulatory Flexibility Act, have been considered when creating this proposed Rule.

This proposed Rule is not anticipated to have an adverse impact on small businesses; therefore, a Small Business Economic Impact Statement has been considered in accordance with R.S. 49:965.6, and it is estimated that the Rule will have negligible impact on small businesses as defined in the Regulatory Flexibility Act. Therefore, a Small Business Economic Impact Statement has not been prepared.

**Provider Impact Statement**

This Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

**Public Comments**

All interested persons are invited to submit written comments via U.S. Mail to Assistant Secretary Robert Wooley, UI-Administration, P.O. Box 94094, Baton Rouge, LA 70804-9094. All written comments are required to be signed by the person submitting the comments, dated, and received on or before 4:30 p.m. on July 10, 2020.

**Public Hearing**

A request pursuant to R.S. 49:953 (A)(2)(a) for oral presentation, argument, or public hearing must be in writing and received by the Workforce Commission no later than 4:30 p.m. on July 10, 2020. The request should be submitted by U.S. mail to the Louisiana Workforce Commission, ATTN: Robert Wooley, Post Office Box 94094, Baton Rouge, LA 70804-9094.

Ava Dejoie  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

**RULE TITLE: Employer Requirement to Provide Notification of the Availability of Unemployment Insurance Benefits to Each Individual Employee at the Time of Separation**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rules will have no fiscal impact on state or local governmental units, other than the publication fees associated with the proposed rule change.

In accordance with the Emergency Unemployment Insurance Stabilization and Access Act of 2020, the proposed rule requires employers to notify employees upon separation that they may file a claim for unemployment benefits. This

notification may be provided to employees in writing either via flyer, letter, email, or text message.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

Implementation of the proposed changes will have no effect on revenue collections of state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The cost to businesses to implement the notification requirement should be minimal given that they can notify separated employees through electronic means, such as email or text. However, to the extent that more separated employees are approved for unemployment benefits as a result of this notification, employer's unemployment insurance premiums will likely increase.

There may be an economic benefit to separated employees that file an unemployment claim as a result of the notification who may not have applied otherwise. However, the amount of this benefit is not quantifiable.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed changes have no known effect on competition and employment.

Ava Dejoie  
Secretary  
2005#023

Evan Brasseur  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Workforce Commission  
Office of Workers' Compensation Administration**

**Medical Treatment Guidelines  
(LAC 40:I.Chapter 20)**

Editor's Note: This Notice of Intent is being repromulgated to correct citations and codification. The original Notice of Intent may be viewed in the May 20, 2020 edition of the *Louisiana Register* on pages 744-759.

The Workforce Commission does hereby give notice of its intent to amend certain portions of the Medical Guidelines contained in the Louisiana Administrative Code, Title 40, Labor and Employment, Part I, Workers' Compensation Administration, Subpart 2, Medical Guidelines, Chapter 20, regarding low back pain guidelines. This Rule is promulgated by the authority vested in the director of the Office of Workers' Compensation found in R.S. 23:1291 and R.S. 23:1310.1(C).

**Title 40**

**LABOR AND EMPLOYMENT**

**Part I. Workers' Compensation Administration**

**Subpart 2. Medical Guidelines**

**Chapter 20. Spine Medical Treatment Guidelines**

**Subchapter B. Low Back Pain**

Editor's Note: Form LWC-WC 1009. Disputed Claim for Medical Treatment has been moved to §2328 of this Part.

**§2013. Introduction**

A. This document has been prepared by the Workforce Commission, Office of Workers' Compensation Administration (OWCA) and should be interpreted within the context of guidelines for physicians/providers treating individuals qualifying under Louisiana Workers' Compensation Act as injured workers with low back pain. Although the primary purpose of this document is advisory

and educational, the guidelines are enforceable under the Louisiana Workers Compensation Act. All medical care, services, and treatment owed by the employer to the employee in accordance with the Louisiana Workers' Compensation Act shall mean care, services, and treatment in accordance with these guidelines. Medical care, services, and treatment that varies from these guidelines shall also be due by the employer when it is demonstrated to the medical director of the office by a preponderance of the scientific medical evidence, that a variance from these guidelines is reasonably required to cure or relieve the injured worker from the effects of the injury or occupational disease given the circumstances. Therefore, these guidelines are not relevant as evidence of a provider's legal standard of professional care. To properly utilize this document, the reader should not skip nor overlook any sections.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1203.1.

HISTORICAL NOTE: Promulgated by the Louisiana Workforce Commission, Office of Workers Compensation Administration, LR 37:1655 (June 2011), amended LR 46:

### **§2015. General Guideline Principles**

A. The principles summarized in this section are key to the intended implementation of all Office of Workers' Compensation Administration medical treatment guidelines and critical to the reader's application of the guidelines in this document.

1. Application of Guidelines. The OWCA provides procedures to implement medical treatment guidelines and to foster communication to resolve disputes among the provider, payer, and patient through the Louisiana Workers Compensation Act.

2. Education. Education of the patient and family, as well as the employer, insurer, policy makers and the community should be the primary emphasis in the treatment of workers' compensation injuries. Currently, practitioners often think of education last, after medications, manual therapy, and surgery. Practitioners must develop and implement strategies to educate patients, employers, insurance systems, policy makers, and the community as a whole. An education-based paradigm should always start with inexpensive communication providing reassuring and evidence-based information to the patient. More in-depth education is currently a component of treatment regimens which employ functional, restorative, preventive and rehabilitative programs. No treatment plan is complete without addressing issues of individual and/or group patient education as a means of facilitating self-management of symptoms and prevention. Facilitation through language interpretation, when necessary, is a priority and part of the medical care treatment protocol.

3. Informed Decision Making. Providers should implement informed decision making as a crucial element of a successful treatment plan. Patients, with the assistance of their health care practitioner, should identify their personal and professional functional goals of treatment at the first visit. Progress towards the individual's identified functional goals should be addressed by all members of the health care team at subsequent visits and throughout the established treatment plan. Nurse case managers, physical therapists, and other members of the health care team play an integral role in informed decision-making and achievement of functional goals. Patient education and informed decision-

making should facilitate self-management of symptoms and prevention of further injury.

4. Treatment Parameter Duration—time frames for specific interventions commence once treatments have been initiated, not on the date of injury. Obviously, duration will be impacted by patient adherence, as well as availability of services. Clinical judgment may substantiate the need to accelerate or decelerate the time frames discussed in this document. Such deviation shall be in accordance with La. R.S. 23:1203.1.

5. Active interventions emphasizing patient responsibility, such as therapeutic exercise and/or functional treatment, are generally emphasized over passive modalities, especially as treatment progresses. Generally, passive interventions are viewed as a means to facilitate progress in an active rehabilitation program with concomitant attainment of objective functional gains.

6. Active Therapeutic Exercise Program. Exercise program goals should incorporate patient strength, endurance, flexibility, coordination, and education. This includes functional application in vocational or community settings.

7. Positive Patient Response. Positive results are defined primarily as functional gains that can be objectively measured.

a. Objective functional gains include, but are not limited to, positional tolerances, range-of-motion (ROM), strength, and endurance, activities of daily living, ability to function at work, cognition, psychological behavior, and efficiency/velocity measures that can be quantified. Subjective reports of pain and function should be considered and given relative weight when the pain has anatomic and physiologic correlation. Anatomic correlation must be based on objective findings.

8. Re-Evaluation of Treatment within Four Weeks. If a given treatment or modality is not producing positive results within four weeks, treatment should be either modified or discontinued. Reconsideration of diagnosis should also occur in the event of poor response to a seemingly rational intervention.

9. Surgical Interventions. Surgery should be contemplated within the context of expected improvement of functional outcome and not purely for the purpose of pain relief. The concept of "cure" with respect to surgical treatment by itself is generally a misnomer. All operative interventions must be based upon positive correlation of clinical findings, clinical course, and diagnostic tests. A comprehensive assimilation of these factors must lead to a specific diagnosis with positive identification of pathologic conditions. The decision and recommendation for operative treatment, and the appropriate informed consent should be made by the operating surgeon. Prior to surgical intervention, the patient and treating physician should identify functional operative goals and the likelihood of achieving improved ability to perform activities of daily living or work activities and the patient should agree to comply with the pre- and post-operative treatment plan and home exercise requirements. The patient should understand the length of partial and full disability expected post-operatively.

10. Pharmacy Louisiana Law and Regulation. All prescribing will be done in accordance with the laws of the

state of Louisiana as they pertain respectively to each individual licensee, including, but not limited to: Board of Medical Examiners regulations governing medications used in the treatment of non-cancer-related chronic or intractable pain; Pharmacy Prescription Monitoring Program; Department of Health and Hospitals licensing and certification standards for pain management clinics; other laws and regulations affecting the prescribing and dispensing of medications in the state of Louisiana.

11. Six Month Time Frame. Injuries resulting in temporary total disability may require maintenance treatment and may not attain return to work in six months.

12. Return to Work. Return to work is therapeutic, assuming the work is not likely to aggravate the basic problem or increase long-term pain. An injured worker's return-to-work status shall not be the sole cause to deny reasonable and medically necessary treatment under these guidelines. Two good practices are: early contact with injured workers and provide modified work positions for short-term injuries. The practitioner must provide specific physical limitations and the patient should never be released to non-specific and vague descriptions such as "sedentary" or "light duty." The following physical limitations should be considered and modified as recommended: lifting, pushing, pulling, crouching, walking, using stairs, bending at the waist, awkward and/or sustained postures, tolerance for sitting or standing, hot and cold environments, data entry and other repetitive motion tasks, sustained grip, tool usage and vibration factors. Even if there is residual chronic pain, return-to-work is not necessarily contraindicated. The practitioner should understand all of the physical demands of the patient's job position before returning the patient to full duty and should request clarification of the patient's job duties. Clarification should be obtained from the employer or, if necessary, from including, but not limited to, occupational health nurse, physical therapist, occupational therapist, vocational rehabilitation specialist, an industrial hygienist, chiropractor or another professional. American Medical Association clarifies "disability" as "activity limitations and/or participation restrictions in an individual with a health condition, disorder or disease" versus "impairment" as "a significant deviation, loss, or loss of use of any body structure or body function in an individual with a health condition, disorder or disease".

13. Delayed Recovery. Within the discretion of the treating physician, strongly consider a psychological evaluation, if not previously provided, as well as initiating interdisciplinary rehabilitation treatment and vocational goal setting, for those patients who are failing to make expected progress 6 to 12 weeks after initiation of treatment of an injury. The OWCA recognizes that 3 to 10 percent of all industrially injured patients will not recover within the timelines outlined in this document despite optimal care. Such individuals may require treatments beyond the limits discussed within this document, but such treatment requires clear documentation by the authorized treating practitioner focusing on objective functional gains afforded by further treatment and impact upon prognosis.

14. Guideline Recommendations and Inclusion of Medical Evidence. All recommendations are based on available evidence and/or consensus judgment. It is generally recognized that early reports of a positive

treatment effect are frequently weakened or overturned by subsequent research. Per R.S. 1203.1, when interpreting medical evidence statements in the guideline, the following apply to the strength of recommendation.

Strong	Level 1 Evidence	We Recommend
Moderate	Level 2 and Level 3 Evidence	We Suggest
Weak	Level 4 Evidence	Treatment is an Option
Inconclusive	Evidence is Either Insufficient or Conflicting	

a. Consensus guidelines are generated by a professional organization that the guidelines are intended to serve. A committee of specialists and experts are selected by the organization to create an unbiased, vetted recommendation for the treatment of specific issues within the realm of their expertise. All recommendations in the guideline are considered to represent reasonable care in appropriately selected cases, regardless of the level of evidence or consensus statement attached to it. Those procedures considered inappropriate, unreasonable, or unnecessary are designated in the guideline as "not recommended."

15. Treatment of Pre-Existing Conditions The conditions that preexisted the work injury/disease will need to be managed under two circumstances: (a) A pre-existing condition exacerbated by a work injury/disease should be treated until the patient has returned to their objectively verified prior level of functioning or Maximum Medical Improvement (MMI); and (b) A pre-existing condition not directly caused by a work injury/disease but which may prevent recovery from that injury should be treated until its objectively verified negative impact has been controlled. The focus of treatment should remain on the work injury/disease.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1203.1.

HISTORICAL NOTE: Promulgated by the Louisiana Workforce Commission, Office of Workers Compensation Administration, LR 37:1655 (June 2011), amended by the Louisiana Workforce Commission, Office of Workers Compensation, LR 40:1135 (June 2014), LR 46:

**§2017. Initial Diagnostic Procedures**

A. ...

1. History-taking and physical examination (Hx and PE) are generally accepted, well-established and widely used procedures that establish the foundation/basis for and dictates subsequent stages of diagnostic and therapeutic procedures. List of medications patient is taking should be included in every history, including over the counter medicines as well as supplements. When findings of clinical evaluations and those of other diagnostic procedures are not complementing each other, the objective clinical findings should have preference. The medical records should reasonably document the following.

a. History of Present Injury—a detailed history, taken in temporal proximity to the time of injury should primarily guide evaluation and treatment. The history should include pertinent positive and negative information regarding the following:

i. ...

ii. location of pain, nature of symptoms, and alleviating/exacerbating factors (e.g., sitting tolerance). The

history should include both the primary and secondary complaints (e.g., primary low back pain, secondary hip, groin). The use of a patient completed pain drawing, such as Visual Analog Scale (VAS), is highly recommended, especially during the first two weeks following injury to assure that all work related symptoms are addressed;

a.iii. - b.vi. ...

c. Physical Examination—should include accepted tests and exam techniques applicable to the area being examined, including:

i. general and visual inspection, including posture, stance, balance and gait;

1.c.ii. - 3.e. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1203.1.

HISTORICAL NOTE: Promulgated by the Louisiana Workforce Commission, Office of Workers Compensation Administration, LR 37:1656 (June 2011), amended by the Louisiana Workforce Commission, Office of Workers Compensation, LR 40:1136 (June 2014), LR 46:

### **§2019. Follow-Up Diagnostic Imaging and Testing Procedures**

A. - B. ...

C. Magnetic resonance imaging (MRI), myelography, or computed axial tomography (CT) scanning following myelography, and other imaging procedures and testing may provide useful information for many spinal disorders. When a diagnostic procedure, in conjunction with clinical information, can provide sufficient information to establish an accurate diagnosis, the second diagnostic procedure will become a redundant procedure. At the same time, a subsequent diagnostic procedure can be a complementary diagnostic procedure if the first or preceding procedures, in conjunction with clinical information, cannot provide an accurate diagnosis. Usually, preference of a procedure over others depends upon availability, a patient's tolerance, and/or the treating practitioner's familiarity with the procedure. Subsequent MRI may be indicated with a change in neurological exam, change in symptoms or a contemplated surgical intervention.

1. Imaging studies are generally accepted, well-established and widely used diagnostic procedures. In the absence of myelopathy, or neurological changes, or history of cancer, imaging usually is not appropriate until conservative therapy has been tried and failed. Six to eight weeks of treatment are usually an adequate period of time before an imaging procedure is in order, but the clinician should use judgment in this regard. When indicated, imaging studies can be utilized for further evaluation of the low back, based upon the mechanism of injury, symptoms, and patient history. Prudent choice of a single diagnostic procedure, a complementary combination of procedures, or a proper sequential order of complementary procedures will help ensure maximum diagnostic accuracy and minimize adverse effect to the patient. When the findings of the diagnostic imaging and testing procedures are not consistent with the clinical examination, the clinical findings should have preference. There is good evidence that in the asymptomatic population, disc bulges, annular tears, or high intensity zone areas, and disc height loss are prevalent 40 to 60 percent of the time depending on the condition, study, and age of the patient. Therefore, the existence of these anatomic findings

should not be considered relevant without physiologic and clinical correlation in an individual patient. The studies below are listed in frequency of use, not importance:

a. - h. ...

2. Other Tests. The following diagnostic procedures in this subsection are listed in alphabetical order, not by importance:

a. Electrodiagnostic Testing

i. - vi. ...

b. Injections—Diagnostic

i. Spinal Diagnostic Injections. Diagnostic spinal injections are commonly used in patients and they usually have been performed previously in the acute or subacute stage. They may rarely be necessary for aggravations of low back pain. Refer to the OWCA Low Back Pain Medical Treatment Guideline for indications.

ii. Diagnostic peripheral nerve blocks such as medial branch facet nerves (lumbar), sacral lateral branches of sacroiliac joints, selective nerve root blocks and transforaminal epidural injections and other pure sensory nerves suspected of causing pain, also include diagnostic facet joint injection as a diagnostic block. Images are required to be saved to verify needle placement.

iii. Medial branch facet blocks (lumbar, indicated if there is demonstration of tenderness over the facet joints or pain on the facet loading maneuvers,) and sacral lateral branch blocks, if provide 80 percent or more pain reduction as measured by a numerical pain index scale within one hour of the medial branch blocks up to three levels per side, then rhizotomy of the medial branch nerves, up to four nerves per side, may be done without confirmation block. If the initial set of medial branch blocks provides less than 80 percent but at least 50 percent pain reduction as measured by a numerical pain index scale or documented functional improvement, the medial branch block should be repeated for confirmation before a rhizotomy is performed. If 50 percent or greater pain reduction is achieved as measured by the NPIS with two sets of medial branch blocks for facet joint pain, then rhizotomy may be performed. Images are required to be saved to verify needle placement.

iv. In general, relief should last for at least the duration of the local anesthetic used and should significantly result in functional improvement and relief of pain. Refer to Injections-Spinal Therapeutic for information on other specific therapeutic injections.

(a). Description. Diagnostic spinal injections are generally accepted, well-established procedures. These injections may be useful for localizing the source of pain, and may have added therapeutic value when combined with injection of therapeutic medication(s). Each diagnostic injection has inherent risks, and risk versus benefit should always be evaluated when considering injection therapy.

(b). Indications. Since these procedures are invasive, less invasive or non-invasive procedures should be considered first. Selection of patients, choice of procedure, and localization of the level for injection should be determined by clinical information indicating strong suspicion for pathologic condition(s) and the source of pain symptoms. Because injections are invasive with an inherent risk, the number of diagnostic procedures should be limited in any individual patient to those most likely to be primary pain generators. Patients should not receive all of the

diagnostic blocks listed merely in an attempt to identify 100 percent of the pain generators.

(c). The interpretation of the test results are primarily based on functional change, symptom report, and pain response (via a recognized pain scale), before and at an appropriate time period after the injection. The diagnostic significance of the test result should be evaluated in conjunction with clinical information and the results of other diagnostic procedures. Injections with local anesthetics of differing duration may be used to support a diagnosis. In some cases, injections at multiple levels may be required to accurately diagnose low back pain.

(i). It is obligatory that sufficient data be accumulated by the examiner performing this procedure such that the diagnostic value of the procedure be evident to other reviewers. This entails, at a minimum, documentation of patient response immediately following the procedure with details of any symptoms with a response and the degree of response. Responses must be identified as to specific body part (e.g., low back, leg pain). The practitioner must identify the local anesthetic used and the expected duration of response for diagnostic purposes.

(ii). Multiple injections provided at the same session without staging may seriously dilute the diagnostic value of these procedures. Practitioners must carefully weigh the diagnostic value of the procedure against the possible therapeutic value.

(d). Special Requirements for Diagnostic Injections. Since multi-planar fluoroscopy during procedures is required to document technique and needle placement, an experienced physician should perform the procedure. Permanent images are required to verify needle placement. The subspecialty disciplines of the physicians performing the injections may be varied, including, but not limited to: anesthesiology, radiology, surgery, neurology or physiatry. The practitioner should document hands-on training through workshops and/or completed fellowship training with interventional training. They must also be knowledgeable in radiation safety.

(e). Complications. General complications of diagnostic injections may include transient neurapraxia, nerve injury, infection, headache, urinary retention, and vasovagal effects, as well as epidural hematoma, permanent neurologic damage, dural perforation, and CSF leakage, and spinal meningeal abscess. Permanent paresis, anaphylaxis, and arachnoiditis have been rarely reported with the use of epidural steroids.

(f). Contraindications

(i). Absolute contraindications to diagnostic injections include: bacterial infection-systemic or localized to region of injection; bleeding diatheses; hematological conditions; and possible pregnancy;

(ii). Relative contraindications to diagnostic injections may include: allergy to contrast, poorly controlled diabetes mellitus and hypertension;

(iii). Drugs affecting coagulation may require restriction from use. Anti-platelet therapy and anti-coagulations should be addressed individually by a knowledgeable specialist. It is recommended to refer to the American Society of Regional Anesthesia for anticoagulation guidelines.

(g). Specific Diagnostic Injections. In general, relief should last for at least the duration of the local anesthetic used and should significantly relieve pain and result in functional improvement. Refer to “Injections – Therapeutic” for information on specific therapeutic injections.

(i). Lumbar Medial Branch Facet Blocks and Sacral Lateral Branch Blocks. If the block provides 80 percent or more pain reduction as measured by a numerical pain index scale within one hour of the medial branch blocks up to three levels per side, then rhizotomy of the medial branch nerves, up to four nerves per side, may be done without confirmation block. If the initial set of medial branch blocks provides less than 80 percent but at least 50 percent pain reduction as measured by a numerical pain index scale or documented functional improvement, the medial branch block should be repeated for confirmation before a rhizotomy is performed. If 50 percent or greater pain reduction is achieved as measured by the NPIS with two sets of medial branch blocks for facet joint pain, then rhizotomy may be performed.

[a]. Frequency and Maximum Duration: May be repeated once for comparative blocks. Limited to four levels

(ii). Transforaminal injections/spinal selective nerve block (SSNB) are generally accepted and useful in identifying spinal pathology. When performed for diagnosis, small amounts of local anesthetic up to a total volume of 1.0 cc should be used to determine the level of nerve root irritation. A positive diagnostic block should result in a positive diagnostic functional benefit and a 50 percent reduction in nerve-root generated pain appropriate for the anesthetic used as measured by accepted pain scales (such as a VAS).

[a]. Time to Produce Effect: less than 30 minutes for local anesthesia; corticosteroids up to 72 hours for most patients.

[b]. Frequency and Maximum Duration: once per suspected level. Limited to two levels

(iii). Zygapophyseal (Facet) Blocks. Facet blocks are generally accepted but should not be considered diagnostic blocks for the purposes of determining the need for a rhizotomy (radiofrequency medial branch neurotomy), nor should they be done with medial branch blocks. These blocks should not be considered a definitive diagnostic tool. They may be used diagnostically to direct functional rehabilitation programs. A positive diagnostic block should result in a positive diagnostic functional benefit and a 50 percent reduction in pain appropriate for the anesthetic used as measured by accepted pain scales (such as a VAS). They then may be repeated per the therapeutic guidelines when they are accompanied by a functional rehabilitation program. (Refer to Therapeutic Spinal Injections).

[a]. Time to Produce Effect: Less than 30 minutes for local anesthesia; corticosteroids up to 72 hours for most patients;

[b]. Frequency and Maximum Duration: Once per suspected level, limited to two levels.

(iv). Sacroiliac Joint Injection. A generally accepted Injection of local anesthetic in an intra-articular fashion into the sacroiliac joint under fluoroscopic guidance.

Long-term therapeutic effect has not yet been established. Indications: Primarily diagnostic to rule out sacroiliac joint dysfunction versus other pain generators. Intra-articular injection can be of value in diagnosing the pain generator. There should be documented relief from previously painful maneuvers (e.g., Patrick's test) and at least 50 percent pain relief on post-injection physical exam (as measured by accepted pain scales such as a VAS) correlated with functional improvement. Sacroiliac joint blocks should facilitate functionally directed rehabilitation programs.

[a]. Time to Produce Effect: Up to 30 minutes for local anesthetic;

[b]. Frequency and Maximum Duration:

1.

c. Personality/ Psychological/ Psychiatric/ Psychosocial Evaluation. These are generally accepted and well-established diagnostic procedures with selective use in the low back population, but have more widespread use in subacute and chronic low back populations. Diagnostic testing procedures may be useful for patients with symptoms of depression, delayed recovery, chronic pain, recurrent painful conditions, disability problems, and for preoperative evaluation. Psychological/psychiatric /psychosocial and measures have been shown to have predictive value for postoperative response, and therefore should be strongly considered for use pre-operatively when the surgeon has concerns about the relationship between symptoms and findings, or when the surgeon is aware of indications of psychological complication or risk factors for psychological complication (e.g. childhood psychological trauma). Psychological testing should provide differentiation between pre-existing conditions versus injury caused psychological conditions, including depression and posttraumatic stress disorder. Psychological testing should incorporate measures that have been shown, empirically, to identify comorbidities or risk factors that are linked to poor outcome or delayed recovery.

i. Formal psychological or psychosocial evaluation should be performed on patients not making expected progress within 6 to 12 weeks following injury and whose subjective symptoms do not correlate with objective signs and test results. In addition to the customary initial exam, the evaluation of the injured worker should specifically address the following areas:

(a) - (f). ...

(g). risk factors and psychological comorbidities that may influence outcome and that may require treatment;

(h). childhood history, including history of childhood psychological trauma, abuse and family history of disability.

ii. Personality/ psychological/ psychiatric / psychosocial evaluations consist of two components, clinical interview and psychological testing. Results should help clinicians with a better understanding of the patient in a number of ways. Thus, the evaluation result will determine the need for further psychosocial interventions; and in those cases, Diagnostic and Statistical Manual of Mental Disorders (DSM) diagnosis should be determined and documented. The evaluation should also include examination of both psychological comorbidities and psychological risk factors that are empirically associated with poor outcome and/or

delayed recovery. An individual with a Ph.D., Psy.D, or psychiatric M.D./D.O. credentials should perform initial evaluations, which are generally completed within one to two hours. A professional fluent in the primary language of the patient is preferred. When such a provider is not available, services of a professional language interpreter should be provided.

(a). Frequency: one-time visit for the clinical interview. If psychometric testing is indicated as a part of the initial evaluation, time for such testing should not exceed an additional nine hours of professional time.

(b). Clinical Evaluation. At the discretion of the evaluating physician, clinical evaluation may address the following areas:

(i). History of Injury. The history of the injury should be reported in the patient's words or using similar terminology. Caution must be exercised when using translators.

[a]. nature of injury;

[b]. psychosocial circumstances of the injury;

[c]. current symptomatic complaints;

[d]. extent of medical corroboration;

[e]. treatment received and results;

[f]. compliance with treatment;

[g]. coping strategies used, including perceived locus of control;

[h]. perception of medical system and employer;

[i]. history of response to prescription medications.

(ii). Health History

[a]. nature of injury;

[b]. medical history;

[c]. psychiatric history;

[d]. history of alcohol or substance abuse;

[e]. activities of daily living;

[f]. mental status exam;

[g]. previous injuries, including disability, impairment, and compensation

(iii). Psychosocial History

[a]. childhood history, including abuse;

[b]. educational history;

[c]. family history, including disability;

[d]. marital history and other significant adulthood activities and events;

[e]. legal history, including criminal and civil litigation;

[f]. employment and military history;

[g]. signs of pre-injury psychological dysfunction;

[h]. current interpersonal relations, support, living situation;

[i]. financial history.

(iv). Psychological test results, if performed.

(v). Danger to self or others.

(vi). Current psychiatric diagnosis consistent with the standards of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders.

(vii). Pre-existing psychiatric conditions. Treatment of these conditions is appropriate when the pre-existing condition affects recovery from pain.

(viii). Causality (to address medically probable cause and effect, distinguishing pre-existing psychological symptoms, traits and vulnerabilities from current symptoms).

(ix). Treatment recommendations with respect to specific goals, frequency, timeframes, and expected outcomes.

(c). Tests of Psychological Functioning. Psychometric testing is a valuable component of a consultation to assist the physician in making a more effective treatment plan. Psychometric testing is useful in the assessment of mental conditions, pain conditions, cognitive functioning, treatment planning, vocational planning, and evaluation of treatment effectiveness. There is no general agreement as to which standardized psychometric tests should be specifically recommended for psychological evaluations of pain conditions. It is appropriate for the mental health provider to use their discretion and administer selective psychometric tests within their expertise and within standards of care in the community. Some of these tests are available in Spanish and other languages, and many are written at a sixth grade reading level. Examples of frequently used psychometric tests performed include, but not limited to, the following.

(i). Comprehensive Inventories for Medical Patients

[a]. Battery for Health Improvement, 2nd Edition (BHI-2). What it measures: depression, anxiety and hostility; violent and suicidal ideation; borderline, dependency, maladjustment, substance abuse, conflicts with work, family and physician, pain preoccupation, somatization, perception of functioning and others. Benefits: when used as a part of a comprehensive evaluation, can contribute substantially to the understanding of psychosocial factors underlying pain reports, perceived disability, somatic preoccupation, and help to design interventions. Serial administrations can track changes in a broad range of variables during the course of treatment, and assess outcome.

[b]. Millon Behavioral Medical Diagnostic (MBMD). What it measures - updated version of the Millon Behavioral Health Inventory (MBHI). Provides information on coping styles (introverted, inhibited, dejected, cooperative, sociable, etc), health habits (smoking, drinking, eating, etc), psychiatric indications (anxiety, depression, etc), stress moderators (illness apprehension vs. illness tolerance, etc), treatment prognostics (interventional fragility vs. interventional resilience, medication abuse vs. medication competence, etc) and other factors. Benefits: when used as a part of a comprehensive evaluation, can contribute substantially to the understanding of psychosocial factors affecting medical patients. Understanding risk factors and patient personality type can help to optimize treatment protocols for a particular patient.

[c]. Pain Assessment Battery (PAB). What it measures: collection of four separate measures that are administered together. Emphasis on the assessment of pain, coping strategies, degree and frequency of distress, health-related behaviors, coping success, beliefs about pain, quality

of pain experience, stress symptoms analysis, and others. Benefits: when used as a part of a comprehensive evaluation, can contribute substantially to the understanding of patient stress, pain reports and pain coping strategies, and help to design interventions. Serial administrations can track changes in measured variables during the course of treatment, and assess outcome.

(d). Comprehensive Psychological Inventories. These tests are designed for detecting various psychiatric syndromes, but in general are more prone to false positive findings when administered to medical patients.

(i). Millon Clinical Multiaxial Inventory, 3rd Edition (MCMI-III). What it measures: has scales based on DSM diagnostic criteria for affective, personality, and psychotic disorders and somatization. Benefits: when used as a part of a part of a comprehensive evaluation, can screen for a broad range of DSM diagnoses.

(ii). Minnesota Multiphasic Personality Inventory, 2nd Edition (MMPI-2). What it measures: original scale constructs, such as hysteria and psychesthesia are archaic but continue to be useful. Newer content scales include depression, anxiety, health concerns, bizarre mentation, social discomfort, low self-esteem, and almost 100 others. Benefits: when used as a part of a comprehensive evaluation, measure a number of factors that have been associated with poor treatment outcome.

(iii). Personality Assessment Inventory (PAI). What it measures - a good measure of general psychopathology. Measures depression, anxiety, somatic complaints, stress, alcohol and drug use reports, mania, paranoia, schizophrenia, borderline, antisocial, and suicidal ideation and more than 30 others. Benefits: when used as a part of a comprehensive evaluation, can contribute substantially to the identification of a wide variety of risk factors that could potentially affect the medical patient.

(e). Brief Multidimensional Screens for Medical Patients. Treating providers, to assess a variety of psychological and medical conditions, including depression, pain, disability and others, may use brief instruments. These instruments may also be employed as repeated measures to track progress in treatment, or as one test in a more comprehensive evaluation. Brief instruments are valuable in that the test may be administered in the office setting and hand scored by the physician. Results of these tests should help providers distinguish which patients should be referred for a specific type of comprehensive evaluation.

(i). Brief Battery for Health Improvement, 2nd Edition (BBHI-2). What it measures: depression, anxiety, somatization, pain, function, and defensiveness. Benefits: can identify patients needing treatment for depression and anxiety, and identify patients prone to somatization, pain magnification and self-perception of disability. Can compare the level of factors above to other pain patients and community members. Serial administrations can track changes in measured variables during the course of treatment, and assess outcome.

(ii). Multidimensional Pain Inventory (MPI). What it measures: interference, support, pain severity, life-control, affective distress, response of significant other to pain, and self-perception of disability at home and work, and in social and other activities of daily living. Benefits: can identify patients with high levels of

disability perceptions, affective distress, or those prone to pain magnification. Serial administrations can track changes in measured variables during the course of treatment, and assess outcome.

(iii). Pain Patient Profile (P3). What it measures: Assesses depression, anxiety, and somatization. Benefits: Can identify patients needing treatment for depression and anxiety, as well as identify patients prone to somatization. Can compare the level of depression, anxiety and somatization to other pain patients and community members. Serial administrations can track changes in measured variables during the course of treatment, and assess outcome.

(iv). SF-36. What it measures: a survey of general health well-being and functional states. Benefits: assesses a broad spectrum of patient disability reports. Serial administrations could be used to track patient perceived functional changes during the course of treatment, and assess outcome.

(v). Sickness Impact Profile (SIP). What it measures: perceived disability in the areas of sleep, eating, home management, recreation, mobility, body care, social interaction, emotional behavior, and communication. Benefits: assesses a broad spectrum of patient disability reports. Serial administrations could be used to track patient perceived functional changes during the course of treatment, and assess outcome.

(vi). McGill Pain Questionnaire (MPQ). What it measures: cognitive, emotional and sensory aspects of pain. Benefits: can identify patients prone to pain magnification. Repeated administrations can track progress in treatment for pain.

(vii). McGill Pain Questionnaire-Short Form (MPQ-SF). What it measures: emotional and sensory aspects of pain. Benefits: can identify patients prone to pain magnification. Repeated administrations can track progress in treatment for pain.

(viii). Oswestry Disability Questionnaire. What it measures: disability secondary to low back pain. Benefits: can measure patients' self-perceptions of disability. Serial administrations could be used to track changes in self-perceptions of functional ability during the course of treatment, and assess outcome.

(ix). Visual Analog Scales (VAS). What it measures: graphical measure of patient's pain report. Benefits: quantifies the patients' pain report. Serial administrations could be used to track changes in pain reports during the course of treatment and assess outcome.

(f). Brief Multidimensional Screens for Psychiatric Patients. These tests are designed for detecting various psychiatric syndromes, but in general are more prone to false positive findings when administered to medical patients.

(i). Brief Symptom Inventory. What it measures: Somatization, obsessive-compulsive, depression, anxiety, phobic anxiety, hostility, paranoia, psychoticism, and interpersonal sensitivity. Benefits: can identify patients needing treatment for depression and anxiety, as well as identify patients prone to somatization. Can compare the level of depression, anxiety, and somatization to community

members. Serial administrations could be used to track changes in measured variables during the course of treatment, and assess outcome.

(ii). Brief Symptom Inventory-18 (BSI-18). What it Measures: depression, anxiety, somatization. Benefits: can identify patients needing treatment for depression and anxiety, as well as identify patients prone to somatization. Can compare the level of depression, anxiety, and somatization to community members. Serial administrations could be used to track patient perceived functional changes during the course of treatment, and assess outcome.

(iii). Symptom Check List 90 (SCL 90). What it measures: Somatization, obsessive-compulsive, depression, anxiety, phobic anxiety, hostility, paranoia, psychoticism, and interpersonal sensitivity. Benefits: Can identify patients needing treatment for depression and anxiety, as well as identify patients prone to somatization. Can compare the level of depression, anxiety and somatization to community members. Serial administrations could be used to track changes in measured variables during the course of treatment, and assess outcome.

(g). Brief Specialized Psychiatric Screening Measures

(i). Beck Depression Inventory (BDI). What it measures: Depression. Benefits: Can identify patients needing referral for further assessment and treatment for depression and anxiety, as well as identify patients prone to somatization. Repeated administrations can track progress in treatment for depression, anxiety, and somatic preoccupation.

(ii). Post Traumatic Stress Diagnostic Scale (PDS). What it Measures: Post Traumatic Stress Disorder (PTSD). Benefits: Helps confirm suspected PTSD diagnosis. Repeated administrations can track treatment progress of PTSD patients.

(iii). Center of Epidemiologic Studies-Depression Questionnaire. What it measures: Depression. Benefits: Brief self-administered screening test. Requires professional evaluation to verify diagnosis.

(iv). Brief Patient Health Questionnaire from PRIME - MD. What it measures: Depression, panic disorder. Benefits: Brief self-administered screening test. Requires professional evaluation to verify diagnosis.

(v). Zung Questionnaire. What it measures: Depression. Benefits: Brief self-administered screening test. Requires professional evaluation to verify diagnosis.

(vi). Diagnostic Studies. Imaging of the spine and/or extremities is a generally accepted, well-established, and widely used diagnostic procedure when specific indications, based on history and physical examination, are present. Physicians should refer to individual OWCA guidelines for specific information about specific testing procedures.

(vii). Radiographic Imaging, MRI, CT, bone scan, radiography, SPECT and other special imaging studies may provide useful information for many musculoskeletal disorders causing pain. Single Photon Emission Computerized Tomography (SPECT). A scanning technique which may be helpful to localize facet joint pathology and is

useful in determining which patients are likely to have a response to facet injection. SPECT combines bone scans and CT Scans in looking for facet joint pathology.

(viii). Electrodiagnostic studies may be useful in the evaluation of patients with suspected myopathic or neuropathic disease and may include Nerve Conduction Studies (NCS), Standard Needle Electromyography, or Somatosensory Evoked Potential (SSEP). The evaluation of electrical studies is difficult and should be relegated to specialists who are well trained in the use of this diagnostic procedure.

(ix). Special Testing Procedures may be considered when attempting to confirm the current diagnosis or reveal alternative diagnosis. In doing so, other special tests may be performed at the discretion of the physician.

(x). Testing for complex regional pain syndrome (CRPS-I) or sympathetically maintained pain (SMP) is described in the Complex Regional Pain Syndrome/Reflex Sympathetic Dystrophy Medical Treatment Guidelines.

d. Provocation Discography

i. - vii.(b).(ii).[e].[i].bb. ...

e. Repealed.

3. - 3.a.i. ...

b. Functional capacity evaluation (FCE) is a comprehensive or modified evaluation of the various aspects of function as they relate to the worker's ability to return to work. FCEs should not be used as the sole criteria to diagnose malingering. Areas such as endurance, lifting (dynamic and static), postural tolerance, specific range of motion (ROM), coordination and strength, worker habits, employability as well as psychosocial, cognitive, and sensory perceptual aspects of competitive employment may be evaluated. Reliability of patient reports and overall effort during testing is also reported. Components of this evaluation may include: musculoskeletal screen; cardiovascular profile/aerobic capacity; coordination; lift/carrying analysis; job-specific activity tolerance; maximum voluntary effort; pain assessment/psychological screening; and non-material and material handling activities. Standardized national guidelines [such as National Institute for Occupational Safety and Health (NIOSH)] should be used as the basis for FCE recommendations.

i. When an FCE is being used to determine return to a specific jobsite, the provider is responsible for fully understanding the physical demands and the duties of the job that the worker is attempting to perform. A jobsite evaluation is frequently necessary. A job description should be reviewed by the provider and FCE evaluator prior to this evaluation. FCEs cannot be used in isolation to determine work restrictions. It is expected that the FCE may differ from both self-report of abilities and pure clinical exam findings. The length of a return to work evaluation should be based on the judgment of the referring physician and the provider performing the evaluation. Since return to work is a complicated multidimensional issue, multiple factors beyond functional ability and work demands should be considered and measured when attempting determination of readiness or fitness to return to work. The authorized treating physician must interpret the FCE in light of the individual patient's

presentation and medical and personal perceptions. FCEs should not be used as the sole criteria to diagnose malingering.

ii. Depth and breadth of FCE should be assessed on a case-by-case basis and should be determined by tester and/or referring medical professional. In many cases, a work tolerance screening or return to work performance will identify the ability to perform the necessary job tasks. There is some evidence that a short form FCE reduced to a few tests produces a similar predictive quality compared to the longer two-day version of the FCE regarding length of disability and recurrence of a claim after return to work.

(a). Frequency. When the patient is unable to return to the pre-injury condition and further information is desired to determine permanent work restrictions. Prior authorization is required for repeat FCEs.

c. Jobsite Evaluation—a comprehensive analysis of the physical, mental, and sensory components of a specific job. The goal of the Jobsite evaluation is to identify any job modification needed to ensure the safety of the employee upon return to work. These components may include, but are not limited to: postural tolerance (static and dynamic); aerobic requirements; range of motion (ROM); torque/force; lifting/carrying; cognitive demands; social interactions; visual perceptual; sensation; coordination; environmental requirements of a job; repetitiveness; essential job functions; and ergonomic set up. Job descriptions provided by the employer are helpful but should not be used as a substitute for direct observation.

i. ...

ii. Requests for a jobsite evaluation should describe the expected goals for the evaluation. Goals may include, but are not limited to the following:

(a). - (d). ...

(e). to give detailed work/activity restrictions.

(i). Frequency—one time with additional visits as needed for follow-up per jobsite.

iii. Jobsite evaluation and alteration should include input from a health care professional with experience in ergonomics or a certified ergonomist, the employee, and the employer. The employee must be observed performing all job functions in order for the jobsite evaluation to be a valid representation of a typical workday. If the employee is unable to perform the job function for observation, a co-worker in an identical job position may be observed instead. Periodic follow-up is recommended to assess the effectiveness of the intervention and need for additional ergonomic changes.

d. Vocational Assessment. The vocational assessment should provide valuable guidance in the determination of future rehabilitation program goals. It should clarify rehabilitation goals, which optimize both patient motivation and utilization of rehabilitation resources. If prognosis for return to former occupation is determined to be poor, except in the most extenuating circumstances, vocational assessment should be implemented within 3 to 12 months post-injury. Declaration of Maximum Medical Improvement (MMI) should not be delayed solely due to lack of attainment of a vocational assessment.

i. ...

e. **Work Tolerance Screening (Fitness for Duty)**—a determination of an individual's tolerance for performing a specific job as based on a job activity or task and may be used when a full Functional Capacity Evaluation is not indicated. It may include a test or procedure to specifically identify and quantify work-relevant cardiovascular, physical fitness and postural tolerance. It may also address ergonomic issues affecting the patient's return-to-work potential.

i. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 23:1203.1.

**HISTORICAL NOTE:** Promulgated by the Louisiana Workforce Commission, Office of Workers Compensation Administration, LR 37:1658 (June 2011), amended by the Louisiana Workforce Commission, Office of Workers Compensation, LR 40:1137 (June 2014), LR 46:

### **§2021. Therapeutic Procedures—Non-Operative**

A. All treatment plans begin with shared decision making with the patient. Before initiation of any therapeutic procedure, an authorized treating healthcare provider, employer, and insurer should consider these important issues in the care of the injured worker.

B. ...

C. Second, cessation and/or review of treatment modalities should be undertaken when no further significant subjective or objective improvement in the patient's condition is noted.

1. Reassessment of the patient's status in terms of functional improvement should be documented after each treatment. If patients are not responding within the recommended time periods, alternative treatment interventions, further diagnostic studies or specialist and/or surgeon consultations should be pursued. Continued treatment should be monitored using objective measures such as:

a. ...

b. fewer restrictions at work or performing activities of daily living (ADL);

c. decrease in usage of medications; related to the work injury; and

d. measurable functional gains, such as increased range of motion, documented increase in strength, increased ability to stand, sit or lift, or patient completed functional evaluations.

D. - F. ...

G. Non-operative treatment procedures for low back pain can be divided into two groups: conservative care and rehabilitation. Conservative care is treatment applied to a problem in which spontaneous improvement is expected in 90 percent of the cases within three months. It is usually provided during the tissue-healing phase and lasts no more than six months, and often considerably less. Rehabilitation is treatment applied to a more chronic and complex problem in a patient with de-conditioning and disability. It is provided during the period after tissue healing to obtain maximal medical recovery. Treatment modalities may be utilized sequentially or concomitantly depending on chronicity and complexity of the problem, and anticipated therapeutic effect. Treatment plans should always be based on a diagnosis utilizing appropriate diagnostic procedures.

H. The following procedures are listed in alphabetical order.

#### 1. Acupuncture

a. **Acupuncture:** the insertion and removal of filiform needles to stimulate acupoints (acupuncture points). Needles may be inserted, manipulated, and retained for a period of time. Acupuncture can be used to reduce pain, reduce inflammation, increase blood flow, increase range of motion, decrease the side effect of medication-induced nausea, promote relaxation in an anxious patient, and reduce muscle spasm.

a.i. - b.i. ...

c. **Total Time Frames for Acupuncture and Acupuncture with Electrical Stimulation:** Time frames are not meant to be applied to each of the above sections separately. The time frames are to be applied to all acupuncture treatments regardless of the type or combination of therapies being provided.

i. - iii. ...

iv. maximum duration: 14 treatments within six months.

(a). ...

d. Repealed.

2. **Biofeedback.** A form of behavioral medicine that helps patients learn self-awareness and self-regulation skills for the purpose of gaining greater control of their physiology, such as muscle activity, brain waves, and measures of autonomic nervous system activity. Electronic instrumentation is used to monitor the targeted physiology and then displayed or fed back to the patient visually, auditorially, or tactilely, with coaching by a biofeedback specialist. Biofeedback is provided by clinicians certified in biofeedback and/or who have documented specialized education, advanced training, or direct or supervised experience qualifying them to provide the specialized treatment needed (e.g., surface EMG, EEG, or other). There is good evidence that biofeedback or relaxation therapy is equal in effect to cognitive behavioral therapy for low back pain. There is good evidence that cognitive behavioral therapy, but not behavioral therapy (e.g., biofeedback), shows weak to small effects in reducing pain and small effects on improving disability, mood, and catastrophizing in patients.

a. ...

b. Indications for biofeedback include individuals who are suffering from musculoskeletal injury in which muscle dysfunction or other physiological indicators of excessive or prolonged stress response affects and/or delays recovery. Other applications include training to improve self-management of emotional stress/pain responses such as anxiety, depression, anger, sleep disturbance, and other central and autonomic nervous system imbalances. Biofeedback is often used in conjunction with other treatment modalities.

i. - iii. ...

iv. maximum duration: 10 to 12 sessions. Treatment beyond 12 sessions must be documented with respect to need, expectation, and ability to facilitate functional gains.

#### 3. Injections—Therapeutic

a. ...

i. Special Considerations. For all injections (excluding trigger point), multi-planar fluoroscopic guidance during procedures is required to document technique and needle placement, and should be performed by a physician experienced in the procedure. Permanent images are required to verify needle replacement.

ii. - iii.(a). ...

b. Epidural Steroid Injection (ESI)

i. - iii.(c). ...

iv. Timing/Frequency/Duration

(a). Epidural injections may be used for radicular pain or radiculopathy. If an injection provides at least 50 percent relief, a repeat of the same pain relieving injection may be given at least two weeks apart with fluoroscopic guidance. No more than two levels may be injected in one session. If there is not a minimum of 50 percent pain reduction as measured by a numerical pain index scale and documented functional improvement, similar injections should not be repeated, although the practitioner may want to consider a different approach or different level depending on the pathology. Maximum of two series (six months apart) of three effective pain relieving injections may be done in one year based upon the patient's response to pain and function.

(b). Spinal Stenosis Patients:

(i). Patients with claudication: The patient has documented spinal stenosis, has attempted active therapy, has persistent claudication symptoms and difficulty with some activities, thus meeting criteria for surgical intervention. The patient may have diagnostic injection as indicated. Patients who have any objective neurologic findings should proceed as the above patient with radicular findings for whom an early surgical consultation is recommended including indirect or direct decompression. Refer to C.1. Those who have mild claudication, or moderate or severe claudication and who do not desire surgery, may continue to receive additional injections if the original diagnostic intervention was successful per guideline standards.

c. Zygapophyseal (Facet) Injection

i. Description—an accepted intra-articular or pericapsular injection of local anesthetic and corticosteroid with very limited uses. Up to three joints. Either unilaterally or bilaterally. Injections may be repeated only when there is 50 percent initial improvement in pain scales as measured by accepted pain scales (such as VAS), and a functional documented response lasts for three months. An example of a positive result would include a return to baseline function as established at MMI, return to increased work duties, or a measurable improvement in physical activity goals including return to baseline after an exacerbation. Injections may only be repeated when these functional and time goals are met and verified. May be repeated up to two times a year. There is no justification for a combined facet and medial branch block. Monitored Anesthesia Care is accepted for diagnostic and therapeutic procedures.

ii. Indications—patients with pain suspected to be facet in origin based on exam findings and affecting activity; or, patients who have refused a rhizotomy; or, patients who have facet findings with a thoracic component. In these

patients, facet injections may be occasionally useful in facilitating a functionally-directed rehabilitation program and to aid in identifying pain generators. Patients with recurrent pain should be evaluated with more definitive diagnostic injections, such as medial nerve branch injections, to determine the need for a rhizotomy. Facet injections are not likely to produce long-term benefit by themselves and are not the most accurate diagnostic tool.

d. Sacroiliac Joint Injection

i. Description—a generally accepted injection of local anesthetic in an intra-articular fashion into the sacroiliac joint under fluoroscopic guidance. May include the use of corticosteroids. Sacroiliac joint injections may be considered either unilaterally or bilaterally. The injection may only be repeated with 50 percent improvement in Visual Analog Scale with documented functional improvement. For Sacroiliac Joint (lateral Branch Neurotomy), the diagnostic S1-S3 lateral branch blocks would need to be documented with 80 percent to 100 percent improvement in symptoms for the duration of the local anesthetic. Should the diagnostic lateral branch nerve blocks only result in 50 percent to 80 percent improvement in symptoms then the confirmatory nerve blocks are recommended. In the event that the diagnostic lateral nerve blocks result in less than 50 percent improvement, then the lateral branch neurotomy is not recommended. SI Joint fusion can be considered if multiple SI joint injections or RF Sacral Lateral Branches are ineffective to maintain function. Monitored Anesthesia Care is accepted for diagnostic and therapeutic procedures.

ii. ...

iii. Timing/Frequency/Duration

(a). Frequency and optimum duration: two to three injections per year. If the first injection does not provide a diagnostic response of temporary and sustained pain relief substantiated by accepted pain scales, (i.e., 50 percent pain reduction substantiated by tools such as VAS), and improvement in function, similar injections should not be repeated. At least six weeks of functional benefit should be obtained with each therapeutic injection.

(b). Maximum duration: three injections per year.

e. Intradiscal Steroid Therapy

i. ...

f. Radio Frequency (RF)—Medial Branch Neurotomy/Facet Denervation

i. Description—a procedure designed to denervate the facet joint (Thoracic and Lumbar) by ablating the corresponding sensory medial branches. Percutaneous radiofrequency is the method generally used. Pulsed radiofrequency at 42 degrees C should not be used as it may result in incomplete denervation. Cooled radiofrequency is generally not recommended due to current lack of evidence.

(a). If the medial branch blocks provide 80 percent or more pain reduction as measured by a numerical pain index scale within one hour of the medial branch blocks, then rhizotomy of the medial branch nerves, up to four nerves per side, may be done. If the first medial branch block provides less than 80 percent but at least 50 percent pain reduction as measured by a numerical pain index scale or documented functional improvement, the medial branch block should be repeated before a rhizotomy is performed. If

50 percent or greater pain reduction is achieved with two sets of medial branch blocks for facet joint pain, then rhizotomy may be performed.

(b). Generally, RF pain relief lasts at least six months and repeat radiofrequency neurotomy can be successful and last longer. RF neurotomy is the procedure of choice over alcohol, phenol, or cryoablation. Permanent images should be recorded to verify placement of the needles.

ii. Needle placement: multi-planar fluoroscopic imaging is required for all injections.

iii. Indications—those patients with proven, significant, facetogenic pain by medial branch block (as defined previously). This procedure is not recommended for patients with multiple pain generators except in those cases where the facet pain is deemed to be greater than 50 percent of the total pain in the given area.

iv. All patients should continue appropriate exercise with functionally directed rehabilitation. Active treatment, which patients will have had prior to the procedure, will frequently require a repeat of the sessions that may have been previously ordered prior to the facet treatment (Refer to Therapy-Active).

v. Complications—bleeding, infection, or neural injury. The clinician must be aware of the risk of developing a localized neuritis, or rarely, a deafferentation centralized pain syndrome as a complication of this and other neuroablative procedures.

vi. Post-Procedure Therapy—active therapy. Implementation of a gentle aerobic reconditioning program (e.g., walking) and back education within the first post-procedure week, barring complications. Instruction and participation in a long-term home-based program of ROM, core strengthening, postural or neuromuscular re-education, endurance, and stability exercises should be accomplished over a period of four to ten visits post-procedure.

vii. Requirements for Repeat Radiofrequency Medial Branch Neurotomy (or other peripheral nerve ablation). In some cases pain may recur. Successful RF neurotomy usually provides from six to eighteen months of relief.

(a). Before a repeat RF neurotomy is done, a confirmatory medial branch injection or diagnostic nerve block should be performed if the patient's pain pattern presents differently than the initial evaluation. In occasional patients, additional levels of medial branch blocks and RF neurotomy may be necessary. The same indications and limitations apply.

g. Radio Frequency Denervation—Sacro-iliac (SI) joint. This procedure requires neurotomy of multiple nerves, such as L5 dorsal ramus, and/or lateral branches of S1-S3 under C-arm fluoroscopy.

i. Needle Placement: Multi-planar fluoroscopic imaging is required. Permanent images are suggested to verify needle placement.

ii. Indications

(a). The patient has physical exam findings of at least three positive physical exam maneuvers (e.g., Patrick's sign, Faber's test, Gaenslen distraction or gapping, or compression test). Insufficient functional progress during an appropriate program that includes active therapy and/or manual therapy.

(b). For sacroiliac joint (lateral branch neurotomy), the diagnostic S1-S3 lateral branch blocks would need to be documented with 80 percent to 100 percent improvement in symptoms for the duration of the local anesthetic. Should the diagnostic lateral branch nerve blocks only result in 50 percent to 80 percent improvement in symptoms then the confirmatory nerve blocks are recommended. In the event that the diagnostic lateral nerve blocks result in less than 50 percent improvement, then the lateral branch neurotomy is not recommended. SI Joint fusion can be considered for those unable to return to function due to with SI injections or RF sacral lateral branches.

iii. Complications: damage to sacral nerve roots—issues with bladder dysfunction etc. Bleeding, infection, or neural injury. The clinician must be aware of the risk of developing a localized neuritis, or rarely, a deafferentation centralized pain syndrome as a complication of this and other neuroablative procedures.

iv. Post-Procedure Therapy—active therapy: implementation of a gentle aerobic reconditioning program (e.g., walking) and back education within the first post-procedure week, barring complications. Instruction and participation in a long-term home-based program of ROM, core strengthening, postural or neuromuscular re-education, endurance, and stability exercises should be accomplished over a period of 4 to 10 visits post-procedure.

v. Requirements for Repeat Radiofrequency SI Joint Neurotomy. In some cases, pain may recur. Successful RF neurotomy usually provides from 6 to 18 months of relief. Repeat neurotomy should only be performed if the initial procedure resulted in improved function for six months. There is no need for repeat Sacroiliac joint or lateral branch injection before RF. SI Joint fusion can be considered for those unable to return to function due to RF Sacral Lateral Branches that no longer last for six months.

h. Trigger Point Injections

i. Description. Trigger point injections are generally accepted treatment. Trigger point treatment can consist of injection of local anesthetic, with or without corticosteroid, into highly localized, extremely sensitive bands of skeletal muscle fibers. These muscle fibers produce local and referred pain when activated. Medication is injected in a four-quadrant manner in the area of maximum tenderness. Injection can be enhanced if treatments are immediately followed by myofascial therapeutic interventions, such as vapo-coolant spray and stretch, ischemic pressure massage (myotherapy), specific soft tissue mobilization and physical modalities. There is conflicting evidence regarding the benefit of trigger point injections. There is no evidence that injection of medications improves the results of trigger-point injections. Needling alone may account for some of the therapeutic response of injections. Needling must be performed by practitioners with the appropriate credentials in accordance with state and other applicable regulations.

(a). Conscious sedation for patients receiving trigger point injections may be considered. However, the patient must be alert to help identify the site of the injection.

ii. Indications. Trigger point injections may be used to relieve myofascial pain and facilitate active therapy

and stretching of the affected areas. They are to be used as an adjunctive treatment in combination with other treatment modalities such as active therapy programs. Trigger point injections should be utilized primarily for the purpose of facilitating functional progress. Patients should continue in an aggressive aerobic and stretching therapeutic exercise program, as tolerated, while undergoing intensive myofascial interventions. Myofascial pain is often associated with other underlying structural problems. Any abnormalities need to be ruled out prior to injection.

iii. Trigger point injections are indicated in patients with consistently observed, well circumscribed trigger points. This demonstrates a local twitch response, characteristic radiation of pain pattern and local autonomic reaction, such as persistent hyperemia following palpation. Generally, trigger point injections are not necessary unless consistently observed trigger points are not responding to specific, noninvasive, myofascial interventions within approximately a six-week time frame. However, trigger point injections may be occasionally effective when utilized in the patient with immediate, acute onset of pain or in a post-operative patient with persistent muscle spasm or myofascial pain.

iv. Complications. Potential but rare complications of trigger point injections include infection, pneumothorax, anaphylaxis, penetration of viscera, neurapraxia, and neuropathy. If corticosteroids are injected in addition to local anesthetic, there is a risk of local myopathy. Severe pain on injection suggests the possibility of an intraneural injection, and the needle should be immediately repositioned.

v. Timing/Frequency/Duration

(a). Time to produce effect: Local anesthetic 30 minutes; 24 to 48 hours for no anesthesia;

(b). Frequency: no more than four injection sites per session per week for acute exacerbations only to avoid significant post-injection soreness;

(c). Optimum duration/Maximum duration: four sessions per year. Injections may only be repeated when the above functional and time goals are met.

3.i. - 4.b. ...

5. Medications/Pharmacy. Medication use in the treatment of low back injuries is appropriate for controlling acute and chronic pain and inflammation. Use of medications will vary widely due to the spectrum of injuries from simple strains to post-surgical healing. All drugs should be used according to patient needs. A thorough medication history, including use of alternative and over the counter medications, should be performed at the time of the initial visit and updated periodically. Treatment for pain control is initially accomplished with acetaminophen and/or NSAIDs. The patient should be educated regarding the interaction with prescription and over-the-counter medications as well as the contents of over-the-counter herbal products. The following are listed in alphabetical order:

a. - g.ii. ...

h. Lofexidine (Lucemyra)

i. Description: Central Alpha 2 Agonist.

ii. Indications: mitigation of opioid withdrawal symptoms to facilitate abrupt opioid discontinuation in adults.

iii. Major Contraindications: severe coronary insufficiency, recent myocardial infarction, cerebrovascular

disease, renal failure, marked bradycardia, or prolonged QT Syndrome.

iv. Dosing and Time to Therapeutic Effect: three 0.18mg tablets 4 times a day for 7 days.

v. Major Side Effects: insomnia, orthostatic hypotension, bradycardia, hypotension, dizziness, somnolence, sedation, dry mouth.

vi. Drug Interactions. Any medications that decrease pulse or blood pressure to avoid the risk of excessive bradycardia and hypotension.

vii. Laboratory Monitoring. Monitor ECG in patients with congestive heart failure, bradyarrhythmis, hepatic impairment, renal impairment, or patients taking other medicinal products that lead to QT Prolongation.

6. Occupational Rehabilitation Programs

a. Non-Interdisciplinary. These generally accepted programs are work-related, outcome-focused, individualized treatment programs. Objectives of the program include, but are not limited to, improvement of cardiopulmonary and neuromusculoskeletal functions (strength, endurance, movement, flexibility, stability, and motor control functions), patient education, and symptom relief. The goal is for patients to gain full or optimal function and return to work. The service may include the time-limited use of passive modalities with progression to active treatment and/or simulated/real work.

i. Work Conditioning

(a). - (a).(iv). ...

ii. Work Simulation

(a). - (a).(iv). ...

(b). Interdisciplinary: programs are well-established treatment for patients with sub-acute and functionally impairing low back pain. They are characterized by a variety of disciplines that participate in the assessment, planning, and/or implementation of an injured worker's program with the goal for patients to gain full or optimal function and return to work. There should be close interaction and integration among the disciplines to ensure that all members of the team interact to achieve team goals. Programs should include cognitive-behavioral therapy as there is good evidence for its effectiveness in patients with chronic low back pain. These programs are for patients with greater levels of disability, dysfunction, de-conditioning and psychological involvement. For patients with chronic pain, refer to the OWCA's Chronic Pain Disorder Medical Treatment Guidelines.

(i). Work Hardening

[a]. - [b].[iv]. ...

(ii). Spinal Cord Programs

[a]. ...

[b]. This can include a highly structured program involving a team approach or can involve any of the components thereof. The interdisciplinary team should, at a minimum, be comprised of a qualified medical director who is board certified and trained in rehabilitation, a case manager, occupational therapist, physical therapist, psychologist, rehabilitation RN and MD, and therapeutic recreation specialist. As appropriate, the team may also include: rehabilitation counselor, respiratory therapist, social worker, or speech-language pathologist.

[c]. ...

7. Orthotics

- a. - b. ...
- c. Lumbar Corsets and Back Belts. There is insufficient evidence to support their use.
- 7.d. - 12.i.iv. ...

13. Therapy—passive. Most of the following passive therapies and modalities are generally accepted methods of care for a variety of work-related injuries. Passive therapy includes those treatment modalities that do not require energy expenditure on the part of the patient. They are principally effective during the early phases of treatment and are directed at controlling symptoms such as pain, inflammation and swelling and to improve the rate of healing soft tissue injuries. They should be used adjunctively with active therapies such as postural stabilization and exercise programs to help control swelling, pain, and inflammation during the active rehabilitation process. Please refer to General Guideline Principles, Active Interventions. Passive therapies may be used intermittently as a therapist deems appropriate or regularly if there are specific goals with objectively measured functional improvements during treatment.

- a. ...
- b. The following passive therapies are listed in alphabetical order.
- i. - vi.(d). ...

vii. Intramuscular Manual Therapy: Dry Needling. IMT involves using filament needles to treat "trigger points" within muscle. It may require multiple advances of a filament needle to achieve a local twitch response to release muscle tension and pain. Dry needling is an effective treatment for acute and chronic pain of neuropathic origin with very few side effects. Dry needling is a technique to treat the neuro-musculoskeletal system based on pain patterns, muscular dysfunction and other orthopedic signs and symptoms:

- 13.b.vii.(a). - 14.a. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1203.1.

HISTORICAL NOTE: Promulgated by the Louisiana Workforce Commission, Office of Workers Compensation Administration, LR 37:1664 (June 2011), amended by the Louisiana Workforce Commission, Office of Workers Compensation, LR 40:1140 (June 2014), LR 46:

**§2023. Therapeutic Procedures—Operative**

- A. - F. ...
- G. Lumbar Operative Procedures and Conditions:
  - 1. - 3.e. ...
  - 4. Laminotomy/Laminectomy/Foramenotomy/Facetectomy for Central or Lateral Spinal Stenosis
    - a. Description - these procedures provide access to produce neural decompression by partial or total removal of various parts of spinous elements.
    - b. Complications—appropriate medical disclosures should be provided to the patient as deemed necessary by the treating physician.
    - c. Surgical indications include all of the following: radicular symptoms or symptoms of neurogenic claudication on exam, and failure of non-surgical care.
      - i. The non-operative improvement appears to be less likely for stenosis than for herniated discs.
    - d. Operative Treatment—laminotomy, laminectomy root decompression, and excision of synovial cyst.

- e. Post-Operative Therapy—a formal physical therapy program should be implemented post-operatively. Active treatment, which patients should have had prior to surgery, will frequently require a repeat of the sessions previously ordered. The implementation of a gentle aerobic reconditioning program (e.g., walking) and back education within the first post-operative week is appropriate in uncomplicated post-surgical cases. Some patients may benefit from several occupational therapy visits to improve performance of ADLs. Participation in an active therapy program which includes restoration of ROM, core stabilization, strengthening, and endurance is recommended to be initiated three to six weeks post-operatively. The goals of the therapy program should include instruction in a long-term home based exercise program. (Refer to Therapy-Active).

5. Spinal Fusion

- a. Description. Use of bone grafts, sometimes combined with metal devices, to produce a rigid connection between two or more adjacent vertebrae.

- b. Complications. Appropriate medical disclosures should be provided to the patient as deemed necessary by the treating physician.

- c. Surgical Indications. A timely decision-making process is recommended when considering patients for possible fusion. For chronic low back problems, fusion should not be considered within the first five months of symptoms, except for fracture or dislocation.

- i. Although there is a statistical correlation between successful radiographic fusion and a good functional outcome, the relationship is not strong in the first two years. However, a recent observational study appears to indicate clinical deterioration in patients with unsuccessful radiographic fusion at an average of seven years post-operatively. There is good evidence that instrumented fusion, compared to non-instrumented fusion, produces a slightly better radiographically-confirmed bony union, with small to moderate functional advantages. Studies of surgical procedures report higher rates of complications with instrumented fusion.

- ii. There is good evidence that intensive exercise for approximately 25 hours per week for four weeks combined with cognitive interventions emphasizing the benefits of maintaining usual activity, produces functional results similar to those of posterolateral fusion after one year. There is some evidence that lumbar fusion produces better symptomatic and functional results in patients with chronic non-radicular pain when several months of conservative treatment have not produced a satisfactory outcome. Fusions associated with decompression are more likely to reduce leg pain.

- iii. Recombinant human bone morphogenetic protein (rhBMP-2) is a member of a family of cytokines capable of inducing bone formation. It is produced from genetically modified cell lines using molecular cloning techniques. At the time of this guideline writing, rhBMP-2 is FDA approved for use in anterior lumbar interbody fusion (ALIF) and is used with a carrier such as a collagen sponge or other matrix, and a cage. There is some evidence that anterior interbody cage fusion using rhBMP-2 results in shorter operative time compared with the use of iliac crest

bone autograft. Minor pain at the iliac crest donor site may persist for 24 months or longer in approximately 30 percent of patients who undergo an autograft procedure. RhBMP-2 avoids the need for harvesting iliac crest donor bone and can therefore, avoid this complication of persistent pain. There is a potential for patients to develop sensitizing or blocking antibodies to rhBMP-2 or to the absorbable collagen sponge. The long-term effects are unknown. The rhBMP-2 used with the interbody fusion device is contraindicated for patients with a known hypersensitivity to Recombinant Human Bone Morphogenetic Protein -2, bovine type 1 collagen, or to other components of the formulation. Use of rhBMP-2 outside the anterior cage may carry a risk of swelling and ectopic bone formation which can encroach on neurovascular structures. At the time of this guideline writing, it is still investigational. Information concerning safe and effective dosing and application are being submitted to the FDA. All other applications are considered off-label and not FDA approved. There is insufficient information to form a recommendation with instrumentation other than the cage specifically designed for anterior procedures. If the FDA approves its use for other operative approaches, prior authorization is required. The patient must meet all indications on the device manufacturer's list and have no contraindications. The formation of exuberant or ectopic bone growth at the upper levels (L2-L4) may have a deleterious impact on certain neurovascular structures, such as the aorta and sympathetic nerve chain. There are also reports of osteoclastic activity with the use of rhBMP-2.

d. Indications for spinal fusion may include:

i. neural arch defect—spondylolytic spondylolisthesis, congenital unilateral neural arch hypoplasia;

ii. segmental instability—excessive motion, as in degenerative spondylolisthesis, surgically induced segmental instability;

iii. primary mechanical back pain/functional spinal unit failure—multiple pain generators objectively involving two or more of the following:

(a). internal disc disruption (poor success rate if more than one disc involved);

(b). painful motion segment, as in annular tears;

(c). disc resorption;

(d). facet syndrome; and/or

(e). ligamentous tear;

iv. revision surgery for failed previous operation(s) if significant functional gains are anticipated;

v. infection, tumor, or deformity of the lumbosacral spine that cause intractable pain, neurological deficit, and/or functional disability.

e. Pre-operative Surgical Indications: Required pre-operative clinical surgical indications for spinal fusion include all of the following:

i. all pain generators are adequately defined and treated; and

ii. all physical medicine and manual therapy interventions are completed; and

iii. x-ray, MRI, or CT/Discography demonstrate disc pathology or spinal instability; and

iv. spine pathology is limited to two levels; and

v. psychosocial evaluation with confounding issues addressed;

vi. for any potential fusion surgery, it is recommended that the injured worker refrain from smoking for at least six weeks prior to surgery and during the period of fusion healing. Because smokers have a higher risk of non-union and higher post-operative costs, it is recommended that insurers cover a smoking cessation program peri-operatively.

f. Operative Therapy. Operative procedures may include:

i. intertransverse fusion;

ii. anterior fusion (with or without rhBMP-2)—generally used for component of discogenic pain where there is no significant radicular component requiring decompression;

iii. posterior interbody fusion—generally used for component of discogenic pain where posterior decompression for radicular symptoms also performed; or

iv. anterior/posterior (360°) Fusion—most commonly seen in unstable or potentially unstable situations or non-union of a previous fusion.

g. Post-Operative Therapy. A formal physical therapy program should be implemented post-operatively. Active treatment, which patients should have had prior to surgery, will frequently require a repeat of the sessions previously ordered. The implementation of a gentle aerobic reconditioning program (e.g., walking), and back education within the first post-operative week is appropriate in uncomplicated post-surgical cases. Some patients may benefit from several occupational therapy visits to improve performance of ADLs. Participation in an active therapy program which includes core stabilization, strengthening, and endurance is recommended to be initiated once the fusion is solid and without complication. The goals of the therapy program should include instruction in a long-term home based exercise program. (Refer to Active Therapy).

h. Return-to-Work. Barring complications, patients responding favorably to spinal fusion may be able to return to sedentary-to-light work within 6 to 12 weeks post-operatively, light-to-medium work within six to nine months post-operatively and medium-to-medium/heavy work within 6 to 12 months post-operatively. Patients requiring fusion whose previous occupation involved heavy-to-very-heavy labor should be considered for vocational assessment as soon as reasonable restrictions can be predicted. The practitioner should release the patient with specific physical restrictions and should obtain a clear job description from the employer, if necessary. Once an injured worker is off work greater than six months, the functional prognosis with or without fusion becomes guarded for that individual.

## 6. Sacroiliac Joint Fusion

a. Description. Use of bone grafts, sometimes combined with metal devices, to produce a rigid connection between two or more adjacent vertebrae providing symptomatic instability as a part of major pelvic ring disruption.

i. Identifying the SI joint as the pain generator is challenging due to the multifactorial nature of low back pain. Once confirmed, management may include physical or manual therapy with a focus on core and pelvic stability, external orthotics, periodic intra-articular injections, anti-inflammatory medications, and life style changes including smoking cessation and weight loss.

b. Complications. Instrumentation failure, bone graft donor site pain, in-hospital mortality, deep infection, superficial infection, and graft extrusion.

c. General Requirements

i. Conservative management should include all of the following:

- (a). activity modification;
- (b). active therapeutic exercise program, physical therapy, or manual therapy;
- (c). anti-inflammatory medications and analgesics; and
- (d). corticosteroid injection.

ii. Tobacco cessation. a tobacco-cessation program resulting in abstinence from tobacco for at least six weeks prior to surgery is recommended.

iii. Body Mass Index (BMI). Patient with a BMI equal to or greater than 40 should attempt weight loss prior to surgery.

d. Indications and Criteria

i. Percutaneous/Minimally Invasive SI Joint Fusion may be considered medically necessary when all of the following criteria are met:

(a). persistent pain with a VAS of 5 or greater for more than six months' duration that interferes with functional activities;

(b). failure of conservative management for at least six months;

(c). confirmation of the SI joint as a pain generator as demonstrated by all of the following:

(i). pain pattern consistent with SI joint pain;

(ii). positive finger Fortin test (tenderness over the sacral sulcus);

(iii). lack of tenderness elsewhere in the pelvic region;

(iv). positive result from at least three provocative tests:

- [a]. long ligament test;
- [b]. Faber's test/Patrick's sign;
- [c]. active straight leg raise;
- [d]. compression test;
- [e]. distraction test;
- [f]. thigh thrust test; or
- [g]. Gaenslen's test;

(v). and other sources of pain have been excluded as a cause;

(d). diagnostic studies that include all of the following:

(i). imaging (plain radiographs and a CT) or MRI of the SI joint;

(ii). AP plain radiograph of the pelvis to exclude hip pathology;

(iii). CT or MRI of the lumbar spine to rule out neural compression or other degenerative condition;

(iv). imaging of SI joint that indicates evidence of injury and/or degeneration;

(e). and confirmation of the SI joint as the pain generator. This can be demonstrated by at least 50 percent reduction of pain for the expected duration of the anesthetic utilized following an intra-articular SI joint injection. This must be done on two separate occasions.

e. Exclusions

i. Indications other than those addresses in this section are considered not medically necessary, including but not limited to the following:

(a). presence of infection, tumor, or fracture;

(b). acute, traumatic instability of the SI joint;

(c). presence of compression that correlates with symptoms or other more likely source of pain;

(d). generalized pain behavior such as somatoform disorder or generalized pain disorders like fibromyalgia; or

(e). ankylosing spondylitis or rheumatoid arthritis.

7. Implantable spinal cord stimulators are reserved for those low back pain patients with pain of greater than six months duration who have not responded to the standard non-operative or operative interventions previously discussed within this document. Refer to OWCA's Chronic Pain Disorder Medical Treatment Guidelines.

8. Laser discectomy involves the delivery of laser energy into the center of the nucleus pulposus using a fluoroscopically guided laser fiber under local anesthesia. The energy denatures protein in the nucleus, causing a structural change which is intended to reduce intradiscal pressure. Its effectiveness has not been shown. Laser discectomy is not recommended.

9. Artificial Lumbar Disc Replacement

a. Description. This involves the insertion of a prosthetic device into an intervertebral space from which a degenerated disc has been removed, sparing only the peripheral annulus. The endplates are positioned under intraoperative fluoroscopic guidance for optimal placement in the sagittal and frontal planes. The prosthetic device is designed to distribute the mechanical load of the vertebrae in a physiologic manner and maintain range of motion.

i. General selection criteria for lumbar disc replacement includes symptomatic one-level degenerative disc disease. The patient must also meet fusion surgery criteria, and if the patient is not a candidate for fusion, a disc replacement procedure should not be considered. Additionally, the patient should be able to comply with pre- and post-surgery protocol.

ii. The theoretical advantage of total disc arthroplasty is that it preserves range of motion and physiologic loading of the disc. This could be an advantage for adults who are physically active. Studies do not demonstrate a long-term advantage of measured function or pain over comparison groups undergoing fusion. The longevity of this prosthetic device has not yet been determined. Significant technical training and experience is required to perform this procedure successfully. Surgeons must be well-versed in anterior spinal techniques and should have attended appropriate training courses, or have undergone training during a fellowship. Mentoring and proctoring of procedures is highly recommended. Reasonable pre-operative evaluation may include an angiogram to identify great vessel location. The angiogram may be either with contrast or with magnetic resonance imaging. An assistant surgeon with anterior access experience is required.

- b. Complications:
  - i. nerve and vascular injury;
  - ii. dural tears;
  - iii. sexual dysfunction (retrograde ejaculation);
  - iv. mal-positioning of the prosthesis;
  - v. suboptimal positioning of the prosthetic may compromise the long-term clinical result;
  - vi. complex regional pain syndrome (CRPS);
  - vii. complications from abdominal surgery, (e.g., hernia or adhesions);
  - viii. re-operation due to complications;
  - ix. appropriate medical disclosures should be provided to the patient as deemed necessary by the treating physician.
- c. Surgical Indications:
  - i. symptomatic one-level degenerative disc disease established by objective testing (CT or MRI scan followed by positive provocation discogram);
  - ii. symptoms unrelieved after six months of active non-surgical treatment;
  - iii. all pain generators are adequately defined and treated;
  - iv. all physical medicine and manual therapy interventions are completed;
  - v. spine pathology limited to one level;
  - vi. psychosocial evaluation with confounding issues addressed.
- d. Contraindications:
  - i. significant spinal deformity/scoliosis;
  - ii. facet joint arthrosis;
  - iii. spinal instability;
  - iv. deficient posterior elements;
  - v. infection;
  - vi. any contraindications to an anterior abdominal approach (including multiple prior abdominal procedures);
  - vii. evidence of nerve root compression, depending on the device used;
  - viii. previous compression or burst fracture;
  - ix. multiple-level degenerative disc disease (DDD);
  - x. spondylolysis;
  - xi. spondylolisthesis greater than 3 mm;
  - xii. osteoporosis or any metabolic bone disease;
  - xiii. chronic steroid use or use of other medication known to interfere with bone or soft tissue healing;
  - xiv. autoimmune disorder;
  - xv. allergy to device components/materials;
  - xvi. depending on the device selected, pregnancy or desire to become pregnant;
  - xvii. morbid obesity (e.g., body/mass index [BMI] of greater than 40, over 100 pounds overweight);
  - xviii. active malignancy.
- e. Post-Operative Therapy. Bracing may be appropriate. A formal physical therapy program should be implemented post-operatively. Active treatment, which patients should have had prior to surgery, will frequently require a repeat of the sessions previously ordered. The implementation of a gentle aerobic reconditioning program (e.g., walking) and back education within the first post-operative week is appropriate in uncomplicated post-surgical cases. Some patients may benefit from several occupational therapy visits to improve performance of ADLs.

Participation in an active therapy program which includes restoration of ROM, core stabilization, strengthening, and endurance is recommended to be initiated at the discretion of the surgeon. Lifting and bending are usually limited for several months at least. Sedentary duty may be able to begin within six weeks in uncomplicated cases. The goals of the therapy program should include instruction in a long-term home based exercise program. (Refer to Active Therapy.)

#### 10. Kyphoplasty

a. Description. A surgical procedure for the treatment of symptomatic thoracic or lumbar vertebral compression fractures, most commonly due to osteoporosis or other metabolic bone disease, and occasionally with post-traumatic compression fractures and minor burst fractures that do not significantly compromise the posterior cortex of the vertebral body. Pain relief can be expected in approximately 90 percent of patients. Vertebral height correction is inconsistent, with approximately 35 percent to 40 percent of procedures failing to restore height or kyphotic angle.

b. Complications. Cement leakage occurs in approximately nine percent of kyphoplasties and may cause complications. New vertebral compression fracture may occur following kyphoplasty, but their occurrence does not appear to exceed that of osteoporotic patients who did not receive treatment.

c. Operative Treatment. Kyphoplasty involves the percutaneous insertion of a trocar and inflatable balloon or expanding polymer into the vertebral body, which re-expands the body, elevating the endplates and reducing the compression deformity. Polymethylmethacrylate (PMMA) bone cement is injected under low pressure into the cavity created by the balloon inflation. In contrast to vertebroplasty, which introduces PMMA cement under high pressure, the space created by balloon inflation allows a higher viscosity PMMA to be injected under lower pressure, which may reduce the risks associated with extravertebral extravasation of the material. There may be an advantage to performing the procedure within one month of the fracture, since the elevation of the endplates may be more readily achieved than when the procedure is delayed.

d. Surgical Indications. Kyphoplasty is an accepted treatment for the following indications:

- i. compression fracture;
- ii. vertebral height loss between 20 percent and 85 percent;
- iii. vertebral height restoration. Kyphoplasty is more likely to increase vertebral height if performed within 30 days of fracture occurrence.

#### e. Contraindications:

- i. the presence of neurologic compromise related to fracture;
- ii. high-velocity fractures with a significant burst component;
- iii. significant posterior vertebral body wall fracture;
- iv. severe vertebral collapse (vertebra plana);
- v. infection, and
- vi. coagulopathy.

#### 11. Vertebroplasty

a. Description vertebroplasty is a procedure for the treatment of painful thoracic and lumbar vertebral

compression fractures caused by osteoporosis or other metabolic bone disease. Polymethylmethacrylate (PMMA) bone cement is injected with high pressure into the vertebral body via an 11- to 13-gauge needle, with the goal of stabilizing the spine and relieving pain. The procedure does not correct spinal deformity. Pain relief can be expected in approximately 90 percent of patients. Vertebral height correction is inconsistent, with approximately 35 percent to 40 percent of procedures failing to restore height or kyphotic angle.

b. Complications

i. Because the bone cement is of low viscosity, its injection under pressure frequently results in extravertebral extravasation of the material, with rare serious complications such as pulmonary embolism. Cement leakage alone occurs in approximately 40 percent of vertebroplasties.

ii. New vertebral compression fractures may occur following vertebroplasty, but their occurrence does not appear to exceed that of osteoporotic patients who did not receive treatment.

c. Indications:

i. compression fracture of preferably less than 30 days;

ii. vertebral height loss between 20 percent and 85 percent;

iii. intact posterior wall.

d. Contraindications:

i. the presence of neurologic compromise related to the fracture;

ii. high velocity fractures with a significant burst component;

iii. posterior vertebral body wall fracture;

iv. severe vertebral collapse (vertebra plana); and

v. infection; and

vi. coagulopathy.

12. Percutaneous radiofrequency disc decompression is an investigational procedure which introduces a 17 gauge cannula under local anesthesia and fluoroscopic guidance into the nucleus pulposus of the contained herniated disc, using radiofrequency energy to dissolve and remove disc material. Pressure inside the disc is lowered as a result. There have been no randomized clinical trials of this procedure at this time. Percutaneous radiofrequency disc decompression is not recommended.

13. Nucleus pulposus replacement involves the introduction of a prosthetic implant into the intervertebral disc, replacing the nucleus while preserving the annulus fibrosus. It is limited to investigational use in the United States at this time. It is not recommended.

14. Epiduroscopy and Epidural Lysis of Adhesions (Refer to Injections-Therapeutic).

15. Intraoperative neurophysiologic monitoring (IONM) is a battery of neurophysiologic tests used to assess the functional integrity of the spinal cord, nerve roots, and other peripheral nervous system structures (eg, brachial plexus) during spinal surgery. The underlying principle of IONM is to identify emerging insult to nervous system structures, pathways, and/or related vascular supply and to provide feedback regarding correlative changes in neural function before development of irreversible neural injury. IONM data provide an opportunity for intervention to prevent or minimize postoperative neurologic deficit.

Current multimodality monitoring techniques permit intraoperative assessment of the functional integrity of afferent dorsal sensory spinal cord tracts, efferent ventral spinal cord tracts, and nerve roots. Combined use of these techniques is useful during complex spinal surgery because these monitoring modalities provide important complementary information to the surgery team. Intraoperative neurophysiologic monitoring should be used during spinal surgery when information regarding spinal cord and nerve root function is desired. The appropriate diagnostic modality for the proposed surgical intervention should be utilized at the discretion of the surgeon.

16. Non-invasive electrical bone growth stimulators may be considered:

a. as an adjunct to spinal fusion surgery for those at high risk for pseudoarthrosis, including one or more of the following fusion failure risk factors:

i. one or more previous failed spinal fusion(s);

ii. grade II or worse spondylolisthesis;

iii. fusion to be performed at more than one level;

iv. presence of other risk factors that may contribute to non-healing:

(a). current smoking;

(b). diabetes;

(c). renal disease;

(d). other metabolic diseases where bone healing is likely to be compromised (e.g.: significant osteoporosis);

(e). active alcoholism;

(f). morbid obesity BMI >40;

b. as treatment for individuals with failed spinal fusion. Failed spinal fusion is defined as a spinal fusion that has not healed at a minimum of six months after the original surgery, as evidenced by serial x-rays over a course of three months during the latter portion of the six-month period;

c. no strict criteria for device removal are suggested in the literature. Implanted devices are generally removed only when the patient complains of discomfort, when there is device malfunction, or to allow for future ability to use MRI. Removal of batteries is not recommended unless there is a device malfunction or other complication.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1203.1.

HISTORICAL NOTE: Promulgated by the Louisiana Workforce Commission, Office of Workers Compensation Administration, LR 37:1676 (June 2011), amended by the Louisiana Workforce Commission, Office of Workers Compensation, LR 40:1151 (June 2014), LR 46:

**Family Impact Statement**

This amendment to Title 40 should have no impact on families.

**Poverty Impact Statement**

This amendment to Title 40 should have no impact on poverty or family income.

**Provider Impact Statement**

1. This Rule should have no impact on the staffing level of the Office of Workers' Compensation as adequate staff already exists to handle the procedural changes.

2. This Rule should create no additional cost to providers or payers.

3. This Rule should have no impact on ability of the provider to provide the same level of service that it currently provides.

**Small Business Impact Statement**

This Rule should have no impact on small businesses.

**Public Comments**

All interested persons are invited to submit written comments or hearing request on the proposed Rule. Such comments or request should be sent to Sheral Kellar, OWC-Administration, 1001 North 23rd Street, Baton Rouge, LA 70802. Such comments should be received by 5 pm on June 10, 2020.

Ava Dejoie  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Medical Treatment Guidelines**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rules will have no fiscal impact on state or local governmental units, other than the publication fees associated with the proposed rule change.

LA R.S. 23:1203.1 requires the Office of Workers' Compensation Administration (OWCA) assistant secretary, with the assistance of the medical advisory council, to review and update the medical treatment schedule a minimum of once

every two years. In accordance with LA R.S. 23:1203.1, the proposed rule amends the medical guidelines for evaluating low back pain as contained in Title 40, Labor and Employment, Part I, Workers' Compensation Administration, Subpart 2, Medical Guidelines, Chapter 20.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of the proposed change will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rules update the medical guidelines for the treatment of injured workers. It is not anticipated that the proposed rules will result in a direct economic benefit. However, it is anticipated that the proposed rules will provide an indirect benefit to injured workers, employers, and insurers, by providing better medical treatment to injured workers, thus facilitating their recovery and return to work.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed change has no known effect on competition and employment.

Sheral Kellar  
Assistant Secretary  
2005#042

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

# Policy and Procedure Memoranda

## POLICY AND PROCEDURE MEMORANDA

### Office of the Governor Division of Administration

PPM 49—General Travel Regulations  
(LAC 4:V.Chapter 15)

#### Title 4

#### ADMINISTRATION

#### Part V. Policy and Procedure Memoranda

#### Chapter 15. General Travel Regulations—PPM Number 49

#### §1501. Authorization and Legal Basis

A. In accordance with the authority vested in the Commissioner of Administration by Section 231 of Title 39 of the Revised Statutes of 1950 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950-968 as amended, notice is hereby given of the revision of Policy and Procedures Memorandum No. 49, the state general travel regulations, effective July 1, 2020. These amendments are both technical and substantive in nature and are intended to clarify certain portions of the previous regulations or provide for more efficient administration of travel policies. These regulations apply to all state departments, boards and commissions created by the legislature or executive order and operating from funds appropriated, dedicated, or self-sustaining; federal funds; or funds generated from any other source.

Please note that when political subdivisions are required to follow PPM 49 for any pass through money issued by the State of Louisiana, any and all required approvals must be sent to the correct appointing authority, not to the Commissioner of Administration.

B. Legal Basis (R.S. 39:231.B). The Commissioner of Administration, with the approval of the governor, shall, by rule or regulation prescribe the conditions under which each of various forms of transportation may be used by state officers and employees in the discharge of the duties of their respective offices and positions in the state service and the conditions under which allowances will be granted for traveling expenses.

AUTHORITY NOTE: Published in accordance with R.S. 39:231.

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#### §1502. Definitions

A. For the purposes of this PPM, the following words have the meaning indicated.

#### *Authorized Persons*—

a. advisors, consultants, contractors and other persons who are called upon to contribute time and services to the state who are not otherwise required to be reimbursed through a contract for professional, personal, or consulting services;

b. members of boards, commissions, and advisory councils required by federal or state legislation or regulation. Travel allowance levels for all such members and any staff shall be those authorized for state employees unless specific allowances are legislatively provided;

c. the department head or his/her designee is allowed to deem persons as an authorized traveler for official state business only.

NOTE: College/University Students must be deemed authorized travelers to be reimbursed for state business purposes. Documentation of all approvals must be maintained on file with the agency.

*Allowance*—maximum amount allowed for travel expenses while traveling on official state business.

*Conference/Convention*—an event (other than routine) for a specific purpose and/or objective. Non-routine event can be defined as a seminar, conference, convention, or training. Documentation required is a formal agenda, program, letter of invitation, or registration fee. Participation as an exhibiting vendor in an exhibit /trade show also qualifies as a conference. For a hotel to qualify for conference rate lodging it requires that the hotel is hosting or is in "conjunction with hosting" the meeting. In the event the designated conference hotel(s) have no room available, a department head may approve to pay actual hotel cost not to exceed the conference lodging rates for other hotels located near the conference hotel.

*Controlled Billed Account (CBA)*—credit account issued in an agency's name (no plastic card issued). These accounts are direct liabilities of the state and are paid by each agency. CBA accounts are controlled through an authorized approver(s) to provide a means to purchase airfare, registration, lodging, rental vehicles, pre-paid shuttle service and any other allowable charges outlined in the current state of Louisiana State Liability Travel and CBA Policy. Each department head determines the extent of the account's use.

*Corporate Travel Card*—credit cards issued in a state of Louisiana employee's name used for specific, higher cost official business travel expenses. Corporate travel cards are state liability cards, paid by each agency.

*Emergency Travel*—each department shall establish internal procedures for authorizing travel in emergency situations. Approval may be obtained after the fact from the Commissioner of Administration with appropriate documentation, under extraordinary circumstances when PPM 49 regulations cannot be followed but where the best interests of the state requires that travel be undertaken.

*Executive Traveler*—the governor of the state of Louisiana. He/she should sign as the traveler but have his/her Chief of Staff and director of budget sign for travel authorization and travel expenses.

*Extended Stays*—any assignment made for a period of 31 or more consecutive days at a place other than the traveler’s official domicile.

*Higher Education Entities*—entities listed under Schedule 19, Higher Education of the General Appropriations Bill.

*Higher Education Entity Head*—president of a university.

*In-State Travel*—all travel within the borders of Louisiana or travel through adjacent states between points within Louisiana when such is the most efficient route.

*International Travel*—all travel to destinations outside the 50 United States, District of Columbia, Puerto Rico, the US Virgin Islands, American Samoa, Guam and Saipan.

*Lowest Logical Airfare*—The lowest logical airfare is the cheapest available at the time of booking without causing undo inconvenience, these types of airfares are non-refundable, penalty tickets. Penalties could include restrictions such as advanced purchase requirements, weekend stays, etc. Prices will increase as seats are sold. When schedule changes are required for lowest logical tickets, penalty fees are added.

*Official Domicile*—every state officer, employee, and authorized person, except those on temporary assignment, shall be assigned an official domicile:

1. except where fixed by law, official domicile of an officer or employee assigned to an office shall be, the parish in which the office is located. The department head or his designee should determine the extent of any surrounding area to be included, such as a region. As a guideline, a radius of at least 30 miles is recommended. The official domicile of an authorized person shall be the parish in which the person resides, except when the department head has designated another location (such as the person's workplace);

2. A traveler whose residence is other than the official domicile of his/her office shall not receive travel and subsistence while at his/her official domicile nor shall he/she receive reimbursement for travel to and from his/her residence;

3. The official domicile of a person located in the field shall be the parish where the majority of work is performed, or such area or region as may be designated by the department head, provided that in all cases such designation must be in the best interest of the agency and not for the convenience of the person;

4. The department head or his/her designee may authorize approval for an employee lodging expenses to be placed on agency CBA or state LaCarte/or travel card within an employee’s domicile with proper justification as to why this is necessary and in the best interest of the state.

*Out-of-State Travel*—travel to any of the other 49 states plus District of Columbia, Puerto Rico, the US Virgin Islands, American Samoa, Guam, and Saipan.

*Passport*—a document identifying an individual as a citizen of a specific country and attesting to his or her identity and ability to travel freely.

*Per Diem*—a flat rate paid in lieu of travel reimbursements for people on extended stays only.

*Receipts/Document Requirements*—supporting documentation, including original receipts, must be retained according to record retention laws. It shall be at the

discretion of each agency to determine where the receipts/documents will be maintained.

*Routine Travel*—travel required in the course of performing his/her job duties. This does not include non-routine meetings, conferences and out-of-state travel.

*State Employee*—employee below the level of state officer.

*State Officer*—

a. state elected officials;

b. department head as defined by Title 36 of the *Louisiana Revised Statutes*, and the equivalent positions in higher education and the office of elected officials.

*Suburb*—an immediate or adjacent location (overflow of the city) to the higher cost areas which would be within approximately 30 miles of the highest cost area.

*Temporary Assignment*—any assignment made for a period of less than 31 consecutive days at a place other than the official domicile.

*Travel Period*—a period of time between the time of departure and the time of return.

*Travel Routes*—the most direct traveled route must be used by official state travelers.

*Travel Scholarships*—if any type of scholarship for travel is offered/received by a state traveler, it is the agency/employee’s responsibility to receive/comply with all ethic laws/requirements (see R.S. 42:1123).

*Traveler*—a state officer, state employee, or authorized person performing authorized travel.

*Visa*—a document or, more frequently, a stamp in a passport authorizing the bearer to visit a country for specific purposes and for a specific length of time.

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### **§1503. General Specifications**

#### **A. Department Policies**

1. Department heads may establish travel regulations within their respective agencies, but such regulations shall not exceed the maximum limitations established by the Commissioner of Administration. Three copies of such regulations shall be submitted for prior review and approval by the Commissioner of Administration. One of the copies shall highlight any exceptions/deviations to PPM-49.

2. Department and agency heads will take whatever action necessary to minimize all travel to carry on the department mission.

3. All high cost expenditures (airfare, lodging, vehicle rentals, and registration) must be placed on the LaCarte purchasing card, travel card or agency CBA programs unless prior approval is granted from the Commissioner of Administration.

4. Department Heads must submit fiscal year exemption request(s) annually. No exemption request(s) is granted on a permanent basis.

5. Contracted Travel Service. The state has contracted for travel agency services which use is mandatory for airfares unless exemptions have been granted by the Division of Administration, Office of State Travel, prior to purchasing airfare tickets. The contracted travel agency has an online booking system which can and should be used by all travelers for booking airfare. Use of the online booking system can drastically reduce the cost paid per transaction and state travelers are strongly encouraged to utilize.

5. Contracted Hotel Services. The state has a contract for hotel services, with HotelPlanner,

NOTE: Travelers will be responsible for adhering to hotel's cancellation policy that is set by the hotel when booking through Hotelplanner. If a traveler does not cancel a hotel stay within the cancellation time frame that is set by the hotel, the traveler will be responsible for payments. No exceptions unless approval is granted from the Commissioner of Administration.

6. Contracted Vehicles Rentals. The state has a contract for all rentals based out of Louisiana through Enterprise Rent-A-Car, which use is mandatory.

a. The state has contracts for all out-of-state rental vehicles which use is mandatory. Travelers shall use Hertz, Enterprise, or National for business travel. These contracts are also applicable to all authorized travelers, and contractors.

7. When a state agency enters into a contract with an out-of-state public entity, the out-of-state public entity may have the authority to conduct any related travel in accordance with their published travel regulations.

8. Authorization to Travel

a. All non-routine travel must be authorized with prior approvals in writing by the head of the department, board, or commission from whose funds the traveler is paid. A file shall be maintained, by the agency, on all approved travel authorizations.

b. Annual travel authorizations are no longer a mandatory requirement of PPM-49 for routine travel, however, an agency can continue to utilize this process if determined to be in your department's best interest and to obtain prior approval for annual routine travel. A prior approved travel authorization is still required for non-routine meetings, conferences and out-of-state travel. No agency/university/board may have a blanket authorization for out of state travel.

c. Executive traveler must sign as the traveler but have his/her chief of staff and director of budget sign for travel authorization and travel expenses.

B. Funds for Travel Expenses

1. Persons traveling on official business will provide themselves with sufficient funds for all routine travel expenses not covered by the corporate travel card, LaCarte purchasing card, if applicable, and/or agency's CBA account. Advance of funds for travel shall be made only for extraordinary travel and should be punctually repaid when submitting the Travel expense form covering the related travel, no later than the fifteenth day of the month following the completion of travel.

2. Exemptions. Cash advance(s) meeting the exception requirement(s) listed below, must have an original and itemized receipt to support all expenditures in which a

cash advance was given, including meals. At the agency's discretion, cash advances may be allowed for:

a. state traveler whose salary is less than \$30,000/year;

b. state traveler who accompany and/or are responsible for students or athletes for a group travel advance;

NOTE: In this case and in regards to meals, where there are group travel advancements, a roster with signatures of each group member along with the amount of funds received by each group member, may be substituted for individual receipts (This exception does not apply when given for just an individual employee's travel which is over a group.)

c. state travelers who accompany and/or responsible for client travel;

d. new employees who have not had time to apply for and receive the state's corporate travel card;

e. employees traveling for extended periods, defined as 30 or more consecutive days;

f. employees traveling to remote destinations in foreign countries, such as jungles of Peru or Bolivia;

g. lodging purchase, if hotel will not allow direct bill or charges to agency's CBA and whose salary is less than \$30,000/year;

h. registration for seminars, conferences, and conventions;

i. any ticket booked by a traveler 30 days or more in advance and for which the traveler has been billed, may be reimbursed by the agency to the traveler on a preliminary expense reimbursement request. The traveler should submit the request with a copy of the bill or invoice. Passenger airfare receipts are required for reimbursement;

j. employees who infrequently travel or travelers that incur significant out-of-pocket cash expenditures and whose salary is less than \$30,000/year.

NOTE: For agencies/boards/universities participating in the LaCarte/Travel CBA card programs, group travel must be placed on one of the card programs. This does not eliminate any approvals that must be granted from the Commissioner of Administration and/or Office of State Travel.

3. Sponsored Travel, as related to Act 200, revised August 2018, requires completion of Ethics Disclosure Form 413. It is the traveler's responsibility to properly complete and submit to the Board of Ethics in the time required. The form can be downloaded from <http://ethics.la.gov/pub/CampFinan/Forms/Form413f.pdf?20190402>.

4. Expenses Incurred on State Business. Traveling expenses of travelers shall be limited to those expenses necessarily incurred by them in the performance of a public purpose authorized by law to be performed by the agency and must be within the limitations prescribed herein.

5. CBA (controlled billed account) issued in an agency's name, and paid by the agency may be used for airfare, registration, rental cars, prepaid shuttle charges, lodging and any allowable lodging associated charges such as parking and internet charges. Other credit cards issued in the name of the state agency are not to be used without written approval.

6. No Reimbursement when No Cost Incurred by Traveler. This includes but is not limited to reimbursements for any lodging and/or meals furnished at a state institution or other state agency, or furnished by any other party at no cost to the traveler. In no case will a traveler be allowed mileage or transportation when he/she is gratuitously transported by another person.

### C. Claims for Reimbursement

1. All claims for reimbursement for travel shall be submitted on the state's Travel Expense Form, BA-12, unless exception has been granted by the Commissioner of Administration, and shall include all details provided for on the form. It must be signed by the person claiming reimbursement and approved by his/her immediate supervisor. In all cases the date and hour of departure from and return to domicile must be shown, along with each final destination throughout the trip clearly defined on the form. On the state's Travel Authorization Form GF-4, the second page must be completed with breakdown of the estimated travel expenses. This is necessary for every trip, not just when requesting a travel advance. For every travel authorization request, the "purpose of the trip" for travel must be stated in the space provided on the front of the form.

2. Except where the cost of air transportation, registration, lodging, rental vehicles, shuttle service, and all other allowable charges outlined in the current state of Louisiana State Liability Travel and CBA Policy are invoiced directly to the agency or charged to a state liability card, any and all expenses incurred on any official trip shall be paid by the traveler and his travel expense form shall show all such expenses in detail so that the total cost of the trip shall be reflected on the travel expense form. If the cost of the expenses listed above are paid directly or charged directly to the agency/department, a notation will be indicated on the travel expense form indicating the date of travel, destination, amount, and the fact that it has been paid by the agency/department. The traveler must provide receipts, for all items charged or billed direct to the agency.

3. In all cases, and under any travel status, cost of meals shall be paid by the traveler and claimed on the travel expense form for reimbursement, and not charged to the state department, unless otherwise authorized by the department head or his designee, allowed under the State Liability Travel, CBA and/or LaCarte Purchasing Card Policy or with written approval from the Office of State Purchasing and Travel. A file must be kept containing all of these special approvals.

4. Claims should be submitted within the month following the travel, but preferably held until a reimbursement of at least \$25 is due. Department heads, at their discretion, may make the 30-day submittal mandatory on a department wide basis.

5. Any person who submits a claim pursuant to these regulations and who willfully makes and subscribes to any claim which he/she does not believe to be true and correct as to every material matter, or who willfully aids or assists in, or procures, counsels or advises the preparation or presentation of a claim, which is fraudulent or is false as to any material matter shall be guilty of official misconduct. Whoever shall receive an allowance or reimbursement by means of a false claim shall be subject to disciplinary action as well as being criminally and civilly liable within the provisions of state law.

6. Agencies are required to reimburse travel in an expeditious manner. In no case shall reimbursements require more than 30 days to process from receipt of complete, proper travel documentation.

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### §1504. Methods of Transportation

A. Cost-Effective Transportation. The most cost-effective method of transportation that will accomplish the purpose of the travel shall be selected. Among the factors to be considered should be length of travel time, employee's salary, cost of operation of a vehicle, cost and availability of common carrier services, etc. Common carrier shall be used for out-of-state travel unless it is documented that utilization of another method of travel is more cost-efficient or practical and approved in accordance with these regulations.

#### B. Air

1. Private Owned or Charter Planes. Before travel by privately-owned or by chartered aircraft is authorized for individual's travel by a department head, the traveler shall certify that: at least two hours of working time will be saved by such travel; and no other form of transportation, such as commercial air travel or a state plane, will serve this same purpose.

a. Chartering a privately owned aircraft must be in accordance with the Procurement Code.

b.i. Reimbursement for use of a chartered or un-chartered privately owned aircraft under the above guidelines will be made on the following basis:

(a). at the rate of \$1.27 per mile; or

(b). at the lesser of coach economy airfare.

ii. If there are extenuating circumstances requiring reimbursement for other than listed above, approval must be granted by the Commissioner of Administration.

c. When common carrier services are unavailable and time is at a premium, travel via state aircraft shall be investigated, and such investigation shall be documented and readily available in the department's travel reimbursement files. Optimum utilization will be the responsibility of the department head.

2. Commercial Airlines (receipts required). All state travelers are to purchase commercial airline tickets through the state contracted travel agency. This requirement is mandatory unless approval is granted from the Office of State Travel. (In the event travelers seek approval to go outside the travel agency, they shall submit their request through their agency travel program administrator, who will determine if the request should be submitted to the Office of State Travel.)

a. While state contractors are not required to use the state's contracted travel agency when purchasing airfare, it will be the agency's responsibility to monitor cost ensuring that the contractor(s) are purchasing the lowest, most logical airfare.

b. The state always supports purchasing the "best value" ticket. Therefore, once all rates are received, the

traveler must compare cost and options to determine which fare would be the "best value" for their trip. To make this determination, the traveler must ask the question: Is there a likelihood my itinerary could change or be cancelled? Depending on the response, the traveler must determine if the costs associated with changing a non-refundable ticket (usually around \$200) would still be the best value.

i. Another factor to assist having a travel agent search the lowest fare is advising the agent if traveler is flexible in either your dates or time of travel. By informing the travel agent of your "window of time" for your departure and return will assist them to search for the best price.

ii. Travelers are to seek airfares allowing an ample amount of lead time prior to departure date. The lead-time should be about 10 to 14 days in advance of travel dates to ensure the lowest fares are available.

NOTE: Cost of a preferred or premium seat is not reimbursable. To avoid these charges or to avoid being bumped, a traveler must check in as early as possible. A traveler should check-in online 24 hours prior to a flight or check-in at the airport several hours prior to departure to obtain a seat assignment. Please be aware that it is a strict airline policy that a traveler must check-in, at a minimum, prior to 30 minutes of departure. The airlines are very strict about this policy. Airline rules typically state that if you don't arrive at least 30 minutes before the schedule departure, you may forfeit your reservation. The earlier you arrive at the gate increases the chances of retaining your original reservation and assurance of a seat on the flight purchased.

c. Commercial air travel will not be reimbursed in excess of lowest logical airfare when it has been determined to be the best value (receipts required). The difference between coach/economy class rates and first class or business class rates will be paid by the traveler. Upgrades at the expense of the state are not permitted, without prior approval of the Commissioner of Administration. If space is not available in less than first or business class air accommodations in time to carry out the purpose of the travel, the traveler will secure a certification from the airline or contracted travel agency indicating this fact. The certification is required for travel reimbursement.

d. The policy regarding airfare penalties is that the state will pay for the airfare and/or penalty incurred for a change in plans or cancellation when the change or cancellation is required by the state or other unavoidable situations approved by the agency's department head. Justification for the change or cancellation by the traveler's department head is required on the travel expense form.

e. When an international flight segment is more than 10 hours in duration, the state will allow the business class rate not to exceed 10 percent of the coach rate. The traveler's itinerary provided by the travel agency must document the flight segment as more than 10 hours and must be attached to the travel expense form.

f. A lost airline ticket is the responsibility of the person to whom the ticket was issued. The airline fee of searching and refunding lost tickets will be charged to the traveler. The difference between the prepaid amount and the amount refunded by the airlines must be paid by the employee.

g. Traveler is to use the lowest logical airfare whether the plane is a prop or a jet.

h. Employees may retain hotel reward points and frequent flyer miles, earned on official state travel, unless an agency deems them property of the state. However, if an

employee makes travel arrangements that favor a preferred airline/supplier to receive points and this circumvents purchasing the most economical means of travel, they are in violation of this travel policy. Costs for travel arrangements subject to this violation are non-reimbursable.

i. When making airline reservations for a conference, let the travel agent know that certain airlines have been designated as the official carrier for the conference. In many instances, the conference registration form specifies that certain airlines have been designated as the official carrier offering discount rates, if available. If so, giving this information to our contracted agency could result in them securing that rate for your travel.

j. Tickets which are unused by a traveler should always be monitored by the traveler and the agency. Traveler should ensure that any unused ticket is considered when planning future travel arrangements. Some airlines have a policy which would allow for a name change to another employee within the agency. A view of the latest airline policies regarding unused tickets are available at the State Travel Office's website <http://www.doa.la.gov/Pages/osp/Travel/af-index.aspx>.

i. Ultimately, it is the traveler's responsibility to determine, upon initial notification of an unused ticket and then every 30 days thereafter, if they will be utilizing the unused ticket. If it is determined that the ticket will not be utilized prior to expiration and there is a possibility to transfer the ticket, the traveler must immediately advise the agency travel administrator that the ticket is available for use by another employee, section or agency. The traveler administrator should then act accordingly.

ii. In addition, the department head, at a minimum of three months prior to expiration, must review all unused airfare to determine, based on the traveler's justification, if reimbursement from the traveler must be made to the agency for the amount of the unused ticket. All files must be properly documented.

iii. This may be accomplished with the unused ticket report sent to each agency program administrator each month from the contracted travel agency. This report in conjunction with employee notifications while booking other flights and employee email notifications every 120, 90, 60, 30 and 14 days prior to ticket expiration should be more than sufficient to reduce the loss of reusable airfare.

#### C. Motor Vehicle

1. No vehicle may be operated in violation of state or local laws. No traveler may operate a vehicle without having in his/her possession a valid U.S. driver's license. Safety restraints shall be used by the driver and passengers of vehicles. All accidents, major or minor, shall be reported first to the local police department or appropriate law enforcement agency. In addition, an accident report form, available from the Office of Risk Management (ORM) of the Division of Administration, should be completed as soon as possible and must be returned to ORM, together with names and addresses of principals and witnesses. Any questions about this should be addressed to the Office of Risk Management of the Division of Administration. These reports shall be in addition to reporting the accident to the Department of Public Safety as required by law.

2.a. Operating a state owned vehicle, state-rented vehicle or state-leased vehicle or operating a non-state-

owned vehicle for state business while intoxicated as set forth in R.S. 14:98 and 14:98.1 is strictly prohibited, unauthorized, and expressly violates the terms and conditions of use of said vehicle. In the event such operation results in the employee being convicted of, pleading nolo contendere to, or pleading guilty to driving while intoxicated under R.S. 14:98 and 14:98.1, such would constitute evidence of the employee:

- i. violating the terms and conditions of use of said vehicle;
- ii. violating the direction of his/her employer; and
- iii. acting beyond the course and scope of his/her employment with the state of Louisiana.

b. Personal use of a state-owned, state-rented or state-leased vehicle is not permitted.

3. No person may be authorized to operate or travel in a state owned or rental vehicle unless that person is a classified or unclassified state officer or employee of the state of Louisiana; any duly appointed member of a state board, commission, or advisory council; or any other person who has received specific approval and is deemed as an "authorized traveler" on behalf of the state, from the department head or his designee to operate or travel in vehicle on official state business only. A file must be kept containing all of these approvals.

4. Any persons who are not official state employees, as define above must sign an Acknowledgement of non-state employees utilizing state vehicles form, located at the Office of State Travel's website, <http://www.doa.la.gov/osp/Travel/forms/nse-acknowledgement.pdf> prior to riding in or driving a state-owned vehicle or rental vehicle on behalf of the State. Each agency is responsible in ensuring that this along with any other necessary documents and requirements are completed and made part of the travel file prior to travel dates.

5. Students not employed by the state shall not be authorized to drive state-owned or rented vehicles for use on official state business. A student may be deemed as an "authorized traveler" on behalf of the state by the department head or his designee. An authorized traveler can be reimbursed for their travel expenses. The acknowledgement of non-state employees utilizing state vehicles form acknowledging the fact that the state assumes no liability for any loss, injury, or death resulting from said travel must be signed as part of the approval process. A file must be kept containing all of these approvals.

6. Persons operating a state owned, rental or personal vehicle on official state business will be completely responsible for all traffic, driving, and parking violations received. This does not include state-owned or rental vehicle violations, i.e. inspections sticker, as the state and/or rental company would be liable for any cost associated with these types of violations.

#### 7. State-Owned Vehicles

a. Travelers in state-owned automobiles who purchase needed fuel, repairs and equipment while on travel status shall make use of all fleet discount allowances and state bulk purchasing contracts where applicable. Reimbursements require a receipt and only regular unleaded gasoline, or diesel when applicable, must be used. This applies for both state owned vehicles and rental vehicles, as mid-grade, super, plus or premium gasoline is not necessary.

If traveler utilizes anything other than regular unleaded gasoline unless vehicle requires diesel, or any other manufactory mandated grade, without justification and prior approval from the agency department head, traveler must reimburse the agency the difference between what was paid and the state average gasoline rates. Each agency/department shall familiarize itself with the existence of the fuel/repair contract(s), terms and conditions as well as location of vendors.

b. State-owned vehicles may be used for out-of-state travel only if permission of the department head has been given prior to departure. If a state-owned vehicle is to be used to travel to a destination more than 500 miles from its usual location, documentation that this is the most cost-effective means of travel should be readily available in the department's travel reimbursement files. When the use of a state-owned vehicle has been approved by the department head for out-of-state travel for the traveler's convenience; the traveler is personally responsible for any other expense in- route to and from their destination, which is inclusive of meals and lodging. If a traveler, at the request of the department, is asked to take his/her personally, owned vehicle out-of-state for a purpose that will benefit the agency, then the department head may on a case-by-case basis determine to pay a traveler for all/part of in-route travel expenses.

c. Unauthorized persons should not be transported in state vehicles. Approval of exceptions to this policy may be made by the department head if he determines that the unauthorized person is part of the official state business and the passenger (or passenger's guardian) signs an acknowledgement of non-state employees utilizing state vehicles form acknowledging the fact that the state assumes no liability for any loss, injury, or death resulting from said travel.

d. If a state vehicle is needed/requested to be brought to the home of a state traveler overnight, then the agency/traveler should ensure it is in accordance with requirements outlined in R.S. 39:361-364.

#### 8. Personally Owned Vehicles

a. When two or more persons travel in the same personally owned vehicle, only one charge will be allowed for the expense of the vehicle. The person claiming reimbursement shall report the names of the other passengers.

b. At the discretion of the Department head or his/her designee, mileage to and from airport(s) may be allowed while on official state business. This approval may include reimbursement for an employee who is being dropped off and/or picked up from airports. Reimbursement may not exceed a maximum of 99 miles per round trip and/or day at a rate of .57 cents per mile. Personal vehicle mileage reimbursements require an odometer reading or website mileage calculator.

c. A mileage allowance shall be authorized for travelers approved to use personally-owned vehicles while conducting official state business. Mileage may be reimbursable at no more than \$0.57 per mile, based on actual physical addresses and in accordance with the following.

- i. For official in-state business travel:

(a) employee should utilize a state vehicle when available;

(b). employee may rent a vehicle from the State's in-state contract Enterprise-Rent-A-Card if a state vehicle is not available and travel exceeds 100 miles; or

(c). if an employee elects to use his/her personal vehicle, reimbursement may not exceed a maximum of 99 miles per round trip and/or day (day or the return to domicile) at \$0.57 per mile.

Please note that mileage is applicable for round trip (multiple days) and/or round trip (one day).

Example No. 1: If someone leaves Baton Rouge, travels to New Orleans and returns that same day, they are entitled to 99 miles maximum for that day trip if they choose to drive their personal vehicle.

Example No. 2: If someone leaves Baton Rouge, travels to New Orleans, and returns two days later, they are entitled to 99 miles maximum for the entire "trip" if they choose to drive their personal vehicle.

Example No. 3: If someone leaves Baton Rouge, travels to New Orleans then on to Lafayette, Shreveport, Monroe and returns to the office four days later, they are entitled to 99 miles maximum for the entire "trip" if they choose to drive their personal vehicle.

d. Mileage shall be computed by one of the following options:

i. on the basis of odometer readings from point of origin to point of return;

ii. by using a website mileage calculator or a published software package for calculating mileage such as Tripmaker, How Far Is It, Mapquest, etc. Employee is to print the page indicating a physical address, mileage and attach it with his/her travel expense form.

e. An employee shall never receive any benefit from not living in his/her official domicile. In computing reimbursable mileage, while the employee is on official state travel status, to an authorized travel destination from an employee's residence outside the official domicile, the employee is always to claim the lesser of the miles from their official domicile or from their residence. If an employee is leaving on a non-work day or leaving significantly before or after work hours, the department head may determine to pay the actual mileage from the employee's residence not to exceed a maximum of 99 miles per round trip and/or day at \$0.57 per mile. See example in Subparagraph C.8.b above.

f. The department head or his designee may approve an authorization for routine travel for an employee who must travel in the course of performing his/her duties; this may include domicile travel if such is a regular and necessary part of the employee's duties, but not for attendance to infrequent or irregular meetings, etc., within the city limits where his/her office is located, the employee may be reimbursed for mileage only not to exceed a maximum of 99 miles per round trip and/or day at \$0.57 per mile. See example in Subparagraph C.8.b above.

g. Reimbursements will be allowed on the basis of \$0.57 per mile, not to exceed a maximum of 99 miles per round trip and/or day, to travel between a common carrier/terminal and the employees point of departure, i.e., home, office, etc., whichever is appropriate and in the best interest of the state. See example in Subparagraph C.8.b above.

h. When the use of a privately-owned vehicle has been approved by the department head for out-of-state travel

for the travelers convenience, the traveler will be reimbursed for mileage on the basis of \$0.57 per mile only not to exceed a maximum of 99 miles per round trip and/or day. If prior approval for reimbursement of actual mileage is requested and granted by the Commissioner of Administration, the total cost of the mileage reimbursement may never exceed the cost of a rental vehicle or the cost of travel by using the lowest logical airfare obtained at least 14 days prior to the trip departure date, whichever is the lesser of the two. The reimbursement would be limited to one lowest logical airfare quote, not the number of persons traveling in the vehicle. The traveler is personally responsible for any other expenses in-route to and from destination which is inclusive of meals and lodging. If a traveler, at the request of the department, is asked to take his/her personally owned vehicle out-of-state for a purpose that will benefit the agency, then the department head may on a case-by-case basis determine to pay a traveler for all/part of in-route travel expenses, however, mileage reimbursement over 99 miles would still require prior approval from the Commissioner of Administration's approval. In this case, once approval is obtained from the Commissioner of Administration to exceed 99 miles, then the department head may authorized actual mileage reimbursements. File should be justified accordingly.

i. When a traveler is required to regularly use his/her personally owned vehicle for agency activities, the agency head may request prior authorization from the Commissioner of Administration for a lump sum allowance for transportation or reimbursement for transportation (mileage). Request for lump sum allowance must be accompanied by a detailed account of routine travel listing exact mileage for each such route and justification why a rental vehicle is not feasible. Miscellaneous travel must be justified by at least a three-month travel history to include a complete mileage log for all travel incurred, showing all points traveled to or from and the exact mileage. Request for lump sum allowance shall be granted for periods not to exceed one fiscal year. A centralized file must be kept containing all approvals.

NOTE: Once someone is given a monthly vehicle allowance or lump sum allowance, they are not to be reimbursed for mileage, fuel or rental vehicles. Rental could be allowed only when flying out of state.

j. In all cases, the traveler shall be required to pay all operating expenses for his/her personal vehicle including fuel, repairs, and insurance.

k.i. The only exemptions which would not require the Commissioner of Administration's prior approval for actual mileage exceeding 99 miles are for:

(a). members of boards and commissions, not administration/office personnel;

(b). students who are traveling on a grant, scholarship, and any other occasion where the student's use of a personal vehicle is the best and/or only method of transportation available.

ii. Although the Commissioner's approval is not necessary, Department head approval is still required.

1. Rented Motor Vehicles (Receipts Required). Any rental vehicles not covered in the state's in-state or out-of-state contracts should be bid in accordance with proper purchasing rules and regulations. The state has a contract for all vehicle rentals based out of Louisiana through Enterprise

Rent-A-Car, which use is mandatory for business travel. This contract is applicable to all authorized travelers, and contractors. The state has contracts for out-of-state vehicles rentals. Travelers shall use Hertz, Enterprise-Rent-A-Car, or National which use is mandatory for business travel. These contracts are also applicable to all authorized travelers, and contractors.

a. In-State Vehicle Rental. The state has contracted for all rentals based out of Louisiana through Enterprise Rent-A-Car's State Motor Pool Rental Contract, which use is mandatory, for business travel which applies to all state of Louisiana employees and/or authorized travelers, contractors, etc. traveling on official state business.

i. A rental vehicle should be used, if a state owned vehicle is not available, for all travel over 99 miles. All exemptions must be requested and granted by the Commissioner of Administration for reimbursements which exceed 99 miles prior to the trip. Requests for exemption must be accompanied by a detailed explanation as to why a rental is not feasible. If an exemption from the program is granted by the Commissioner of Administration as stated above, then the employee will not be required to rent a vehicle and may receive actual mileage reimbursement up to \$0.57 per mile.

ii. All state contractors, who have entered into a contract with the state of Louisiana, and whose contracts are required to follow PPM 49 for travel reimbursements, are required to utilize both in-state and out-of-state mandatory contracts awarded by the State.

iii. Although exemptions may be granted, by the Commissioner of Administration, all must adhere to the current mileage reimbursement rate of no more than \$0.57 per mile.

iv. The only exemption which would not require the Commissioner of Administration's prior approval for exceeding 99 miles reimbursement and receiving actual mileage reimbursements is for members of boards and commissions, not administration/office personnel, and for students which are traveling on a grant, scholarship, or any other occasion where use of a personal vehicle is the best and/or only method of transportation available. Department head approval is required. Board and commission members may receive actual mileage reimbursement of no more than \$0.57 per mile.

v. For trips of 100 miles or more, any employee and/or authorized traveler, should use a state owned vehicle or rental from Enterprise Rent-A-Car State Motor Pool Rental Contract, when a state vehicle is not available.

vi. For trips of less than 100 miles employees should utilize a state vehicle when available, may utilize their own vehicle and receive mileage reimbursement not to exceed a maximum of 99 miles per round trip and/or day at \$0.57 per mile or may rent a vehicle from Enterprise Rent-A-Car's State Motor Pool Rental Contract.

vii. Reservations are not to be made at an airport location for daily routine travel, as this will add additional unnecessary cost to your rental charges. An employee must purchase gasoline with the State's Fuel Card or any other approved credit card at reasonable cost from a local gasoline station prior to returning the rental. Pre-paid Fuel Options or replacement of gasoline, in any way, from the rental company, for rental vehicles, are not allowed. If traveler

utilizes any gasoline options or programs allowing rental vehicle companies to replace gasoline; or uses anything other than regular unleaded gasoline, unless vehicle requires diesel or any other manufactory-mandated grade, without justification and prior approval from the agency Department Head, traveler must reimburse the agency the difference between what was paid and the state average gasoline rate. Each agency/department shall familiarize itself with the existence of the State's fuel/repair contract(s), terms and conditions as well as locations of vendors.

b. Payments Rentals through the State Motor Pool Rental Contract may be made using the "LaCarte" purchasing card, an agency's CBA account, an employee's state corporate travel card or by direct bill to the agency. This will be an agency decision as to the form of payment chosen. If direct bill is chosen, agency must set up account billing information with Enterprise. An account may be established by contacting Joseph Rosenfeld at 225-445-7250, joseph.g.rosenfeld@ehi.com.

c. Out-of-State Vehicle Rental. The state has contracted for rental vehicles for domestic and out-of-state travel, excluding Louisiana and international travel, utilizing the state of Louisiana's out-of-state contracts, which use is mandatory. All state of Louisiana employees and/or authorized travelers, contractors are mandated to use these contracts due to exceptional pricing which includes CDW (Collision Damage Waiver) and \$1,000,000 liability insurance. The state of Louisiana out-of-state participating vendors include Enterprise Rent-A-Car, National Car Rental and Hertz Car Rental Corporation. It is the traveler's discretion which rental company is utilized.

d. All state contractors who have entered into a contract with the state of Louisiana, and whose contracts are required to follow PPM49 for travel reimbursements, are required to utilize both in-state and out-of-state mandatory contracts awarded by the state.

e. Although exemptions may be granted, by the Commissioner of Administration, all must adhere to the current mileage reimbursement rate of no more than \$0.57 per mile.

f. The only exemption which would not require the Commissioner of Administration's approval for exceeding 99 miles reimbursement and receiving actual mileage reimbursements is for students which are traveling on a grant, scholarship, or any other occasion where use of a personal vehicle is the best and/or only method of transportation available. Department head approval is required.

g. Payments rentals made through the state of Louisiana out-of state contracts may be made using the "LaCarte" purchasing card, an employee's corporate travel card or by direct bill to the agency. This will be an agency decision as to the form of payment chosen. If a direct bill account is chosen for Enterprise and National, you may contact Joseph Rosenfeld at 225-445-7250, joseph.g.rosenfeld@ehi.com and for Hertz, you may contact Tami Vetter at 225-303-5973, tvetter@hertz.com.

h. Approvals. Written approval of the department head or his designee prior to departure is not required for the rental of vehicles, however, if your agency chooses, approval may be made mandatory or handled on an annual basis if duties require frequent rentals. Special approval is required,

from the department head or his/her designee, for rental of any vehicle in the “full size” category or above. File must include proper justification.

i. Vehicle Rental Size

i. Only the cost of a compact or standard/intermediate model is reimbursable, unless:

(a). non-availability is documented; or

(b). the vehicle will be used to transport more

than two persons.

NOTE: When a larger vehicle is necessary as stated in 1 or a larger vehicle is necessary due to the number of persons being transported, the vehicle shall be upgraded only to the next smallest size and lowest price necessary to accommodate the number of persons traveling.

ii. A department head or his/her designee may, on a case-by-case basis, authorize a larger size vehicle provided detailed justification is made in the employee’s file. Such justification could include, but is not limited to, specific medical requirements when supported by a doctor’s recommendation.

j. Personal Use of Rental. Personal use of a rental vehicle, when rented for official state business, is not allowed.

k. Gasoline (Receipts Required). Reimbursements require an original receipt and only regular unleaded gasoline, or diesel when applicable, must be used. This applies for both state-owned vehicles and rental vehicles, as mid-grade, super, plus or premium gasoline is not necessary. An employee must purchase gasoline from a local gasoline station prior to returning the rental. Pre-paid fuel options or replacement of gasoline, in any way, from the rental company, for rental vehicles, are only to be allowed. If traveler utilizes any gasoline options or programs allowing rental vehicle companies to replace gasoline; or uses anything other than regular unleaded gasoline, unless vehicle requires diesel or any other manufactory mandated grade, without justification and prior approval from the agency department head, traveler must reimburse the agency the difference between what was paid and the state average gasoline rate. Each agency/department shall familiarize itself with the existence of the fuel/repair contract(s), terms and conditions as well as locations of vendors.

l. Insurance for Vehicle Rentals within the 50 United States. Insurance billed by car rental companies is not reimbursable. All insurance coverage for rental vehicles, other than the state’s in-state and out-of-state mandatory contracts, is provided by the Office of Risk Management. Should a collision occur while on official state business, the accident should immediately be reported to the Office of Risk Management and rental company. Any damage involving a third party must be reported to appropriate law enforcement entity to have a police report generated.

i. CDW/damage waiver insurance and \$1 million liability protection coverage is included in the state in-state and out-of-state rental contract pricing.

NOTE: Lost keys and car door unlocking services for rental vehicles are not covered under the damage waiver policy and are very costly. The agency should establish an internal procedure regarding liability of these costs.

ii. No other insurance will be reimbursed when renting, except when renting outside the 50 United States, see §1504.C.3.i. There should be no other charges added to the base price, unless the traveler reserves the vehicle at an airport location (which is not allowed for daily routine travel

unless prior approval from the Commissioner of Administrator). Reimbursable amounts would then be submitted at the end of the trip on a travel expense form.

m. Insurance for Vehicles Rentals outside the 50 United States (Receipts Required). The Office of Risk Management (ORM) recommends that the appropriate insurance (liability and physical damage) provided through the car rental company be purchased when the traveler is renting a vehicle outside the 50 United States. With the approval of the department head or his/her designee required insurance costs may be reimbursed for travel outside the 50 United States only.

10. The following are insurance packages available by rental vehicle companies which are reimbursable:

a. collision damage waiver (CDW)—should a collision occur while on official state business, the cost of the deductible should be paid by the traveler and submit a reimbursement claimed on a travel expense form. The accident should also be reported to the Office of Risk Management;

b. loss damage waiver (LDW);

c. auto tow protection (ATP)—\*approval of department head;

d. supplementary liability insurance (SLI)—\*if required by the rental company;

e. theft and/or super theft protection (coverage of contents lost during a theft or fire)—\*if required by the car rental company;

f. vehicle coverage for attempted theft or partial damage due to fire—\*if required by the car rental company.

11. The following are some of the insurance packages available by rental vehicle companies that are not reimbursable:

a. personal accident coverage insurance (PAC);

b. emergency sickness protection (ESP).

12. Navigation equipment (GPS system), rented not purchased, from a rental car company, may only be reimbursed if an employee justifies the need for such equipment and with prior approval of the department head or his designee.

D. Public Ground Transportation. The cost of public ground transportation such as buses, subways, airport shuttle/limousines, and taxis are reimbursable when the expenses are incurred as part of approved state travel. See receipt requirements below.

1. Public transportation to and from the airport, while on official state business, may be reimbursed with a receipt.

a. If utilizing Uber or Lyft type services, only a standard size vehicle is reimbursable with an itemized receipt. Premium or larger vehicles size are not reimbursable. Any additional charges other than standard fare rates are not reimbursable (i.e. wait time fees). Travelers should utilize the most economic ground transportation without occurring additional markup fees.

b. When travelers utilize a free shuttle service, a \$5.00 tip may be allowed (no receipt is required). This is not an automatic tip reimbursement, as travelers must show proof that the service was utilized

2. Airport shuttle/limousines, taxi and all other public transportation where a receipt is available, requires a receipt for reimbursements. A driver’s tip for shuttle/limousines and taxis may be given and must not exceed 20 percent of total

charge. Amount of tip must be included on receipt received from driver/company.

3. All other forms of public ground transportation, where a receipt is not possible and other than those listed above, are limited to \$10 per day without a receipt, claims in excess of \$10 per day requires a receipt. At the agency's discretion, the department head may implement an agency wide policy requiring receipts for all public transportation request less than \$10 per day.

4. To assist agencies with verification of taxi fares, you may contact the taxi company for an estimate or visit sites such as taxifarefinder.com. An employee should always get approval, prior to a trip, if multiple taxis will be used; as it may be in the agency's best interest to rent a vehicle versus reimbursement of multiple taxi expenses.

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#### **§1505. State Issued Travel Credit Cards/CBA Accounts**

A. Use. All high cost expenditures (airfare, lodging, vehicle rentals, and registration) must be placed on the LaCarte purchasing card, travel card or agency CBA programs unless prior approval is granted from the Commissioner of Administration. The State Travel Office contracts for an official state corporate travel card to form one source of payment for travel. If a supervisor recommends an employee be issued a state travel card, the employee should complete an application through their agency travel program administrator. The State Travel Office contracts for an official state corporate travel card to form one source of payment for travel. If a supervisor recommends an employee be issued a state travel card, the employee should complete an application through their agency travel program administrator.

1. The employee's corporate travel card is for official state travel business purposes only. Personal use on the state travel card shall result in disciplinary action.

2. If a vendor does not accept credit card payment for, registration or lodging expense, the Department Head may approve for payment(s) to be made by other means. Traveler must submit supporting documentation from vendor stating they do not accept credit card payments. The supporting document must be kept with the travel expense form.

#### **B. Liability**

1. The corporate travel card is the liability of the state. Each monthly statement balance is due in full to the card-issuing bank. The state will have no tolerance to assist those employees who abuse their travel card privileges.

2. The department/agency is responsible for cancellation of corporate travel cards for those employees terminating/retiring from state service.

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#### **§1506. Lodging and Meals**

##### **A. Eligibility**

##### **1. Official Domicile/Temporary Assignment.**

Travelers are eligible to receive reimbursement for travel only when away from "official domicile" or on temporary assignment unless exception is granted in accordance with these regulations. Temporary assignment will be deemed to have ceased after a period of 30 calendar days, and after such period the place of assignment shall be deemed to be his/her official domicile. He/she shall not be allowed travel and subsistence unless permission to extend the 30-day period has been previously secured from the Commissioner of Administration.

2. Extended Stays. For travel assignments approved by the Commissioner of Administration involving duty for extended periods (31 or more consecutive days) at a fixed location, the reimbursement rates indicated should be adjusted downward whenever possible. Claims for meals and lodging may be reported on a per diem basis supported by lodging receipt. Care should be exercised to prevent allowing rates in excess of those required to meet the necessary authorized subsistence expenses. It is the responsibility of each agency head to authorize only such travel allowances as are justified by the circumstances affecting the travel.

a. The only exemption, for travel of 31 days or more which does not require the Commissioner of Administration's approval, are students, professors or other state traveler which are traveling on a grant, scholarship, studying abroad or any other occasion where funds utilized are other than state general funds. Department head approval is required.

##### **3. Single Day Travel**

a. Meals are not eligible for reimbursements on single day travel. This means that when an authorized traveler of the state is in travel status where no overnight stay is required, no meals are eligible for reimbursement. Each department head or their designees are to determine the reasonableness of when an overnight stay is justified.

b. However, the department head will be allowed to authorize single day meal reimbursements on a case-by-case basis or by type(s) of single day travel when it is determined to be in the best interest of the department. In those cases, the department must keep the approvals in the travel file and must be responsible to take appropriate steps to report the reimbursement as wages to the employee.

c. If a department head or his/her designee determines that single day meals will be provided for, they must adhere to the following allowances. To receive any

meal reimbursement on single day travel, an employee must be in travel status for a minimum of 12 hours.

i. The maximum allowance for meal reimbursement for single-day travel will be \$43:

(a). breakfast and lunch: (\$24). The 12-hours travel duration must begin at or before 6 a.m.;

(b). lunch: (\$13); requires a 14-hour duration in travel status;

(c). lunch and dinner: (\$43). The 12-hour travel duration must end at or after 8 p.m.

4. Travel with Over-Night Stay (minimum of 12 hours in travel status). Travelers may be reimbursed for meals according to the following schedule:

a. breakfast—when travel begins at/or before 6 a.m. on the first day of travel or extends at/or beyond 9 a.m. on the last day of travel, and for any intervening days;

b. lunch—when travel begins at/or before 10 a.m. on the first day of travel or extends at/or beyond 2 p.m. on the last day of travel, and for any intervening days;

c. dinner—when travel begins at/or before 4 p.m. on the first day of travel or extends at/or beyond 8 p.m. on the last day of travel, and for any intervening days.

5. Alcohol. Reimbursement for alcohol is prohibited.

#### B. Exceptions

1. Routine Lodging Overage Allowances (Receipts Required). Department head or his/her designee has the authority to approve actual costs for routine lodging provisions on a case by case basis, not to exceed 50 percent over PPM-49 current listed rates. (Note this authority is for routine lodging only and not for conference lodging or any other area of PPM-49) Justification and approval must be maintained in the file to show that attempts were made with hotels in the area to receive the state/best rate. In areas where the governor has declared an emergency, a department head or his/her designee will have the authority to approve actual routine lodging provisions on a case by case basis not to exceed 75 percent over PPM-49 current listed rates. Each case must be fully documented as to necessity (e.g., proximity to meeting place) and cost effectiveness of alternative options. Documentation must be readily available in the department's travel reimbursement files.

2. Actual Expenses for Elected Officials, Board Members (if allowed by the Board) and State Officers (Itemized receipts are required for each item claimed): Elected Officials, Board Members (if allowed by the Board) and State Officers and others so authorized by statute, or any individual preapproved exception will be reimbursed on an actual expense basis for meals and lodging, while in travel status, except in cases where other provisions for reimbursement have been made by statute. (Itemized Receipts(s) Required) Request shall not be extravagant and will be reasonable in relation to the purpose of travel. Elected Officials, Board Members if allowed by the Board) and State officers entitled to actual expense reimbursements are only exempt from meals and lodging rates; they are subject to the time frames and all other requirements as listed in these travel regulations.

C. Meals and Lodging Allowances (meal rates are not a per diem; only the maximum allowed while in travel status)

1. Meal Allowance (includes tax and tips). Receipts are not required for routine meals within these allowances, unless a cash advance was received. (See §1503.B.2).

Number of meals claimed must be shown on travel expense form. For meal rates, the inclusion of suburbs (see definition of *suburb*) shall be determined by the department head or his/her designee on a case-by-case basis. See tier pricing below. Partial meals such as continental breakfast or airline meals are not considered meals.

NOTE: If a meal is included in a conference schedule, it is part of the registration fee, therefore, an employee cannot request/receive additional reimbursement for that meal.

2. Meals with relatives or friends may not be reimbursed unless the host can substantiate costs for providing for the traveler. The reimbursement amount will not automatically be the meal cost for that area, but rather the actual cost of the meal.

Example: The host would have to show proof of the cost of extra food, etc. Cost shall never exceed the allowed meal rate listed for that area.

3. Routine Lodging Allowance. The state has contracted for all hotel expenditures through HotelPlanners contract. Lodging rate, plus tax and any mandatory surcharge. (Receipts are required.) For lodging rates, the inclusion of suburbs (see definition of *suburb*) shall be determined by the department head on a case-by-case basis. Employees should always attempt to use the tax exempt form located on the State Travel website for all in-state lodging. <http://www.doa.la.gov/osp/Travel/forms/hoteltaxexemption.pdf> when traveling in-state on official state business, and must be used if hotel expenses are being charged to employee's state corporate travel card, the LaCarte Card or the agency's CBA account. When two or more employees on official state business share a lodging room, the state will reimburse the actual cost of the room; subject to a maximum amount allowed for an individual traveler times the number of employees.

4. Lodging with relatives or friends may not be reimbursed unless the host can substantiate costs for accommodating the traveler. The amount will not automatically be the lodging cost for that area, but rather the actual cost of accommodations. Example: The host would have to show proof of the cost of extra water, electricity, etc. Cost shall never exceed the allowed routine lodging rate listed for that area. Department head or his/her designee's approval must be provided to allow lodging expenses to be direct billed to an agency.

5. Conference Lodging Allowance. Employees may be allowed lodging rates, plus tax (other than state of Louisiana tax) and any mandatory surcharge. Receipts are required along with documentation showing the actual conference rate. Department head or his/her designee has the authority to approve the actual cost of conference lodging, for a single occupancy standard room, when the traveler is staying at the designated conference hotel. If there are multiple designated conference hotels, the lower cost designated conference hotel should be utilized, if available. In the event the designated conference hotel(s) have no room availability, a department head or his/her designee may approve to pay actual hotel cost not to exceed the conference lodging rates for other hotels in the immediate vicinity of the conference hotel. This allowance does not include agency hosted conference lodging allowances; see §1510 for these allowances. In the event a traveler chooses to stay at a hotel which is not associated with the conference, then the traveler is subject to making reservation and getting reimbursed

within the hotel rates that will be allowed in routine lodging only, as listed below.

NOTE: Training courses which are several days and have a designated hotel and rate, can be considered a "conference hotel" and therefore the designated rate can be allowed.

6. Resort fees are not allowable unless attending a conference and/or if a traveler is staying in a city that all hotels are charging a resort fee.

7. Tax Recovery Charges, Service fees and/or Booking fees are not allowed when booking through companies other than State of Louisiana Mandate Travel Agency or their affiliated company.

8. Traveler will be responsible for reimbursing agency for any In-state taxes when tax exemption form is not presented at time of check-in at hotel.

9. No reimbursements are allowed for functions not relating to a conference, i.e., tours, dances, golf tournaments, etc.

10. If staying at a designated conference hotel or the overflow hotel(s) you may not rent a vehicle unless prior approval is granted from the department head. Rental must be for official state business needs with supporting documentation maintained in the file.

TIER I	
Breakfast	\$10
Lunch	\$14
Dinner	\$29
Total	\$53
Lodging Area	
In-State Cities (except as listed)	\$96
Alexandria/Leesville/Natchitoches	\$99
Baton Rouge-EBR	\$100
Covington/Slidell-St. Tammany	\$96
Lake Charles-Calcasieu	\$96
Lafayette	\$96

TIER II	
Breakfast	\$13
Lunch	\$18
Dinner	\$30
Total	\$61
Lodging Area	
New Orleans – Orleans, St. Bernard, Jefferson and Plaquemines Parishes	\$117
July- September	\$157
October – January	\$157
February - June	\$157
Out-Of-State	\$96
(Except Cities Listed in Tier III & IV)	

TIER III	
Breakfast	\$13
Lunch	\$19
Dinner	\$33
Total	\$65

TIER III	
Lodging Area	Routine Lodging
Austin, TX; Atlanta, GA; Cleveland, OH; Dallas/Fort Worth, TX; Denver, CO; Ft. Lauderdale, FL; Hartford, CT; Houston, TX; Kansas City, MO; Las Vegas Los Angeles, CA; Miami, FL; Minneapolis/St. Paul, MN; Nashville, TN; Oakland, CA; Orlando, FL; Philadelphia, PA; Phoenix, AZ; Pittsburgh, PA; Portland, OR; Sacramento, CA; San Antonio, TX; San Diego, CA; Sedona, AZ; St. Louis, MO; Wilmington, DE; all of Alaska and Hawaii; Puerto Rico; Virgin Island; American Samoa; Guam, Saipan	\$170

TIER IV	
Breakfast	\$14
Lunch	\$21
Dinner	\$36
Total	\$71
Lodging Area	
Baltimore, MD; San Francisco, CA; Seattle, WA; Chicago, IL; Boston, MA	\$212
Alexandria, VA; Arlington, VA; New York City, NY; Washington DC	\$225
International Cities	\$200

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HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, published LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 6:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 26:1256 (June 2000), LR 27:807 (June 2001), republished LR 27:1495 (September 2001), LR 28:1130 (June 2002), LR 30:1116 (June 2004), LR 31:1189 (June 2005), LR 32:939 (June 2006), LR 33:967 (June 2007), republished LR 33:1320 (July 2007), amended LR 34:1305 (July 2008), LR 35:1198 (July 2009), LR 36:1654 (July 2010), LR 42:990 (July 2016), LR 43:1119 (June 2017), LR 45:821 (June 2019), LR 46:849 (June 2020).

**§1507. Parking and Related Parking Expenses**

A. Parking at the Baton Rouge Airport. The state's current contract rate is \$4.50 per day (receipts required) for parking in the indoor parking garage as well as the outside, fenced parking lot at the Baton Rouge airport. Documentation required to receive the contract price is the airport certificate and a state ID. If the agency does not issue a state ID, the traveler would need a business card and a driver's license along with the certificate to be eligible for the state contracted rate. Airport certificate may be found on State Travel Office's website at <http://www.doa.la.gov/osp/Travel/parking/BRairport.pdf>.

B. New Orleans Airport Parking- At this time, only USPARK'S, uncovered parking is reimbursable with a receipt (as published on USPARK.net)

C. Travelers using motor vehicles on official state business may be reimbursed for all other parking, including airport parking except as listed in A and B above, ferry fares, and road and bridge tolls. For each transaction over \$5, a receipt is required.

D. Tips for valet parking not to exceed \$5 per day.

AUTHORITY NOTE: Published in accordance with R.S. 39:231.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, published LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 6:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 26:1257 (June 2000), LR 27:808 (June 2001), republished LR 27:1496 (September 2001), republished LR 27:1496 September 2001, LR 28:1130 (June 2002), LR 30:1117 (June 2004), LR 31:1190 (June 2005), LR 33:968 (June 2007), republished LR 33:1321 (July 2007), amended LR 34:1307 (July 2008), LR 35:1200 (July 2009), LR 36:1655 (July 2010), LR 42:992 (July 2016), LR 43:1121 (June 2017), LR 45:822 (June 2019), LR 46:851 (June 2020).

**§1508. Reimbursement for Other Expenses (These charges are while in travel status only.)**

A. The following expenses incidental to travel may be reimbursed.

1. Communications Expenses

a. For Official State Business—all business communication costs may be reimbursed (receipts required).

NOTE: If a traveler has an official state phone and/or is receiving a monthly stipend, reimbursements are not allowed.

b. For Domestic Overnight Travel—up to \$3 for personal calls upon arrival at each destination and up to \$3 for personal calls every second night after the first night if the travel extends several days. Note: If a traveler has an official state phone and/or is receiving a monthly stipend, reimbursements are not allowed.

c. For International Travel—up to \$10 for personal calls upon arrival at each destination and up to \$10 for personal calls every second night after the first night if the travel extends several days. Note: If a traveler has an official state phone and/or is receiving a monthly stipend, reimbursements are not allowed.

d. Internet access charges for official state business from hotels or other travel locations are treated the same as business telephone charges. A department may implement a stricter policy for reimbursement of Internet charges. (Receipts required)

B. Charges for Storage and Handling of State Equipment. Materials can be placed on the agency's CBA account. (Receipts Required)

C. Baggage Tips

1. Hotel Allowances—up to \$5 tip per hotel check-in and \$5 tip per hotel checkout, if applicable.

2. Airport Allowances—up to \$5 tip for airport outbound departure trip and \$5 tip for inbound departure trip. (Maximum total for entire trip is not to exceed \$10.)

D. Luggage Allowances (Receipt Required). A department head or his designee may approve reimbursement to a traveler for airline charges for first checked bag for a business trip of 5 days or less and for the second checked bag for a 6-10 day business trip and/or any additional baggage which is business related and required by the department. The traveler must present a receipt to substantiate these charges.

1. Travelers will be reimbursed for excess baggage charges (overweight baggage) only in the following circumstances:

a. when traveling with heavy or bulky materials or equipment necessary for business;

b. the excess baggage consists of organization records or property.

NOTE: Traveler should always consider shipping materials to final destination or splitting materials into additional pieces of luggage to avoid the excess baggage charges in order to save their agency costs.

E. Registration Fees at Conferences (Meals that are a designated integral part of the conference may be reimbursed on an actual expense basis with prior approval by the department head.). Note: If a meal is included in a conference schedule, it is part of the registration fee, therefore, an employee cannot request/receive additional reimbursement for that meal.

F. Laundry Services. Employees on travel for more than seven days may be reimbursed with department head or his/her designee's prior approval, up to actual, but reasonable, costs incurred. Receipts are required for reimbursement.

AUTHORITY NOTE: Published in accordance with R.S. 39:231.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, published LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 6:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 26:1258 (June 2000), LR 27:808 (June 2001), LR 28:1131 (June 2002), LR 30:1118 (June 2004), LR 31:1190 (June 2005), LR 32:941 (June 2006), republished LR 33:1322 (July 2007), amended LR 34:1307 (July 2008), LR 35:1200 (July 2009), LR 36:1656 (July 2010), LR 42:992 (July 2016), LR 43:1121 (June 2017), LR 45:823 (June 2019), LR 46:852 (June 2020).

**§1509. Special Meals**

A. Reimbursement designed for those occasions when, as a matter of extraordinary courtesy or necessity, it is appropriate and in the best interest of the state to use public funds for provision of a meal to a person who is not otherwise eligible for such reimbursement and where reimbursement is not available from another source. Requests should be within reason and may include tax and tips. Itemized receipts are required.

1. Visiting dignitaries or executive-level persons from other governmental units, and persons providing identified gratuity services to the state. This explicitly does not include normal visits, meetings, reviews, etc., by federal or local representatives.

2. Extraordinary situations are when state officer or state employees are required by their supervisor to work more than a 12-hour weekday or six hours on a weekend (when such are not normal working hours to meet crucial deadlines or to handle emergencies).

B. All special meals must have prior approval from the Commissioner of Administration or, for higher education, the entity head or his designee in order to be reimbursed, unless specific authority for approval has been delegated to a department head for a period not to exceed one fiscal year with the exception in Subsection C, as follows.

C. A department head may authorize a special meal within allowable rates listed under meals, Tier 1, to be served in conjunction with a working meeting of departmental staff (sign-in sheet required). Reasonable delivery fee and tip may be allowed if ordered from outside vendor. No tip should ever exceed 20 percent.

D. In such cases, the department will report on a quarterly basis to the Commissioner of Administration all special meal reimbursements made during the previous three

months. For higher education, these reports should be sent to the respective institution of higher education management board. These reports must include, for each special meal, the name and title of the person receiving reimbursement, the name and title of each recipient, the cost of each meal and an explanation as to why the meal was in the best interest of the state. Renewal of such delegation will depend upon a review of all special meals authorized and paid during the period. Request to the commissioner for special meal authorization must include, under signature of the department head:

1. name and position/title of the state officer or employee requesting authority to incur expenses and assuming responsibility for such;
2. clear justification of the necessity and appropriateness of the request;
3. names, official titles or affiliations of all persons for whom reimbursement of meal expenses is being requested;
4. statement that allowances for meal reimbursement according to these regulations will be followed unless specific approval is received from the Commissioner of Administration to exceed this reimbursement limitation:

a. all of the following must be reviewed and approved by the department head or his/her designee prior to reimbursement:

- i. detailed breakdown of all expenses incurred, with appropriate receipts(s);
- ii. subtraction of cost of any alcoholic beverages;
- iii. copy of prior written approval from the Commissioner of Administration or, for higher education, the entity head or his/her designee.

AUTHORITY NOTE: Published in accordance with R.S. 39:231.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, published LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 6:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 26:1258 (June 2000), LR 27:809 (June 2001), LR 28:1132 (June 2002), LR 30:1118 (June 2004), LR 31:1191 (June 2005), republished LR 1322 (July 2007), amended LR 34:1307 (July 2008), LR 35:1200 (July 2009), LR 36:1656 (July 2010), LR 42:993 (July 2016), LR 43:1122 (June 2017), LR 45:823 (June 2019), LR 46:852 (June 2020).

**§1510. Agency-Hosted Conferences (Both In-State and Out-of-State)**

A. State Sponsored Conferences. An agency must solicit three bona fide competitive quotes in accordance with the governor's Executive Order for small purchase.

B. Attendee Verification. All state-sponsored conferences must have a sign-in sheet or some type of attendee acknowledgment for justification of number of meals ordered and charged.

C. Conference Lunch Allowance. Lunch direct-billed to an agency in conjunction with a state-sponsored conference is to be within the following rates plus mandated gratuity. Any gratuity which is not mandated may not exceed 20 percent.

Lunch In-State excluding New Orleans \$25	\$20
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1. Any other meals such as breakfast and dinner require special approval from the Commissioner of

Administration or for higher education, the entity head or his/her designee.

D. Conference Refreshment Allowance. Costs for break allowances for meetings, conferences or conventions are to be within the following rates.

a. Refreshments shall not exceed \$5.50 per person, per morning and/or afternoon sessions. A mandated gratuity may be added if refreshments are being catered.

E. Conference Lodging Allowances. Lodging rates may not exceed \$20 above the current listed routine lodging rates listed for the area in which the conference is being held.

AUTHORITY NOTE: Published in accordance with R.S. 39:231.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, published LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 6:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 26:1256 (June 2000), LR 27:807 (June 2001), republished LR 27:1495 (September 2001), LR 28:1130 (June 2002), LR 30:1116 (June 2004), LR 31:1191 (June 2005), LR 32:941 (June 2006), republished LR 33:1323 (July 2007), amended LR 34:1308 (July 2008), LR 35:1201 (July 2009), LR 36:1657 (July 2010), LR 42:993 (July 2016), LR 43:1122 (June 2017), LR 45:824 (June 2019), LR 46:853 (June 2020).

**§1511. International Travel**

A. International travel must be approved by the Commissioner of Administration or, for higher education, the entity head or his designee prior to departure, unless specific authority for approval has been delegated to a Department Head. Requests for approval must be accompanied by a detailed account of expected expenditures (such as room rate, date, meals, local transportation, etc.), and an assessment of the adequacy of this source to meet such expenditures without curtailing subsequent travel plans.

B. International travelers will be reimbursed the Tier IV area rates for meals and lodging, unless U.S. State Department rates are requested and authorized by the Commissioner of Administration or, for Higher Education, the entity head or his designee, prior to departure. Itemized receipts are required for reimbursement of meals and lodging claimed at the U.S. state department rates. [http://aoprals.state.gov/web920/per\\_diem.asp](http://aoprals.state.gov/web920/per_diem.asp).

C. It is the agency's decision, if justification is given, to allow state travelers to be reimbursed for a VISA and/or immunizations when the traveler is traveling on behalf of the agency/university on official state business. However, it is not considered best practice for the state to reimburse for a passport, therefore, passport reimbursements must be submitted to the department head for approval along with detailed justification as to why this reimbursement is being requested/approved.

AUTHORITY NOTE: Published in accordance with R.S. 39:231.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, published LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 8:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 26:1258 (June 2000), LR 27:809 (June 2001), LR 28:1132 (June 2002), LR 30:1119 (June 2004), LR 31:1192 (June 2005), republished LR 33:1323 (July 2007), amended LR 34:1308 (July 2008), LR 35:1201 (July 2009), LR 36:1657 (July 2010), LR 42:994 (July 2016), LR 43:1123 (June 2017), LR 45:824 (June 2019), LR 46:853 (June 2020).

**§1512. Waivers**

A. The Commissioner of Administration may waive in writing any provision in these regulations when the best interest of the state will be served. All waivers must obtain prior approvals, except in emergency situations.

AUTHORITY NOTE: Published in accordance with R.S. 39:231.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, published LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 6:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October

1989), LR 16:965 (November 1990), LR 26:1258 (June 2000), LR 27:809 (June 2001), LR 28:1132 (June 2002), LR 30:1118 (June 2004), LR 31:1191 (June 2005), republished LR 1322 (July 2007), amended LR 34:1307 (July 2008), LR 35:1200 (July 2009), LR 36:1656 (July 2010), LR 42:993 (July 2016), LR 43:1122 (June 2017), LR 45:825 (June 2019), LR 46:854 (June 2020).

Tammy Toups  
State Travel Director

2005#043

# Committee Reports

## COMMITTEE REPORT

### House Committee on Natural Resources and Environment and Senate Committee on Natural Resources

Oversight Hearing on Notice of Intent Proposed by  
Department of Wildlife and Fisheries  
2019-2020 Hunting Regulations and Seasons  
(LAC 76:XIX.Chapter 1)

In accordance with the powers conferred in the Administrative Procedure Act by R.S. 49:968, the House Committee on Natural Resources and Environment and the Senate Committee on Natural Resources met on June 10, 2020, to exercise oversight authority on the attached Notice of Intent to consider rules submitted by the Louisiana Department of Wildlife and Fisheries on May 26, 2020.

The Notice of Intent provides for the "2020-2021 and 2021-2022 Resident Game Hunting Season (LAC 76:XIX.101 and 103), 2020-2021 General and Wildlife Management Areas (WMA) Hunting Rules and Regulations (LAC 76:XIX.111), 2022 General and WMA Turkey Hunting Regulations (LAC 76:XIX.113), 2021 Turkey Hunting Areas, Seasons, and Bag Limits (LAC 76:XIX.115), and 2020-2021 Migratory Bird Hunting Seasons, Regulations, and Bag Limits (LAC 76:XIX.117)". The rules were finally adopted by the Louisiana Wildlife and Fisheries Commission at their May 7, 2020, meeting.

After a thorough hearing on the matter of a ban on the use of non-toxic shot at shooting ranges at the Wildlife Management Areas (WMAs), including a presentation by the department and public testimony, the House committee, by a vote of 10-0, and the Senate committee, by a vote of 5-0, found Section 111(G)(1)(r) of Chapter 1 of Part XIX of Title 76 of the Louisiana Administrative Code (the ban on the use

of lead shot at shooting ranges on WMAs) not reasonable, that it is lacking in merit, and is unacceptable as provided in R.S. 49:968(D)(3). As the prohibition is severable, the remainder of the rule can move forward as submitted with no objection from the committees.

There were several concerns voiced by the committees including 1) there is not sufficient scientific documentation to convince the committee that prohibiting the use of lead shot at WMA ranges presented a risk that could not be otherwise reduced in a less restrictive manner that would provide opportunities for and to encourage the use and enjoyment of these resources; 2) such a prohibition would act as a barrier to entry for many citizens who would like to participate in activities such as hunting and sport shooting due to the increased cost of non-toxic ammunition; 3) the prohibition creates a situation of unequal application whereby various species may be hunted by lead shot but hunters cannot practice their techniques with lead shot; 4) there is no similar prohibition by the federal government that would encourage the states to follow their lead; and 5) the department has access to cost-effective programs aimed at mitigating the use of lead shot at shooting ranges.

By transmittal of this written report of committee action and pursuant to R.S. 49:968(F) the committee is notifying the Governor, the Wildlife and Fisheries Commission, the Department of Wildlife and Fisheries, and the Louisiana Register of the committee's action.

Jean-Paul Coussan, Chairman  
State Representative, House District 45  
and  
Bob Hensgens, Chairman  
Senator, Senate District 26

# Legislation

## HOUSE CONCURRENT RESOLUTION

House Concurrent Resolution No. 4

Tax/Ad Valorem-Exemption: Amends Rules Relative to Participation in the Industrial Tax Exemption Program

To amend the Louisiana Economic Development rules LAC 13:I.502 and 503.H, which provide for local approval for industrial ad valorem tax exemption applications; to authorize an ITEP Ready local governmental entity approval option; to provide for certain requirements and limitations; to provide for related matters; and to direct the Office of the State Register to print the amendments in the *Louisiana Administrative Code*.

WHEREAS, Article 7, Section 21(F) of the Constitution of Louisiana provides that the Board of Commerce and Industry "with the approval of the governor, may enter into contracts for the exemption from ad valorem taxes of a new manufacturing establishment or an addition to an existing manufacturing establishment, on such terms and conditions as the board, with approval of the governor, deems in the best interest of the state"; and

WHEREAS, in June of 2017 and August of 2018, the Department of Economic Development promulgated rules in accordance with the Administrative Procedure Act to govern the application process for the Industrial Tax Exemption Program established in Article 7, Section 21(F) of the Constitution of Louisiana; and

WHEREAS, the current administrative rules and regulations require local governmental entities to provide their approval or rejection of an industrial ad valorem tax exemption application within their jurisdiction prior to gubernatorial review and approval of an application; and

WHEREAS, the current administrative rules and regulations do not allow local governmental entities to provide continuous approval or rejection of all potential industrial ad valorem tax exemption applications within their jurisdictions; and

WHEREAS, a local option that indicates to potential applicants continuous approval or rejection of all industrial ad valorem tax exemption applications in a parish could be a useful economic development recruitment tool; and

WHEREAS, R.S. 49:969 authorizes the legislature, by Concurrent Resolution, to suspend, amend, or repeal any rule or regulation or body of rules or regulations adopted by a state department, agency, board, or commission.

THEREFORE, BE IT RESOLVED by the Legislature of Louisiana that LAC 13:I.502 and 503.H are hereby amended to read as follows:

### §502. Definitions

*Addition to a Manufacturing Establishment*—

1.a. a capital expenditure for property that would meet the standard of a new manufacturing establishment if the addition were treated as a stand-alone establishment;

b. a capital expenditure for property that is directly related to the manufacturing operations of an existing manufacturing establishment; or

c. an installation or physical change made to a manufacturing establishment that increases its value, utility or competitiveness;

2. maintenance capital, required environmental capital upgrades, and replacement parts, except those replacements required in the rehabilitation or restoration of an establishment, to conserve as nearly, and as long as possible, original condition, shall not qualify as an addition to a manufacturing establishment;

3. expenses associated with the rehabilitation or restoration of an establishment as provided for in §511 shall be included as an addition to a manufacturing establishment.

*Beginning of Construction*—the first day on which foundations are started or, where foundations are unnecessary, the first day on which installations of the manufacturing establishment begins.

*Board*—Board of Commerce and Industry.

*Capital Expenditure*—the cost associated with a new manufacturing establishment or an addition to an existing manufacturing establishment, including purchasing or improving real property and tangible personal property, whose useful life exceeds one year and which is used in the conduct of business.

*Department*—Louisiana Department of Economic Development.

*Establishment*—an economic unit at a single physical location.

*Exhibit A*—a fully executed agreement between the department and the applicant specifying the terms and conditions of the granting of the exemption contract.

*Integral*—required to make whole the product being produced.

*ITEP Ready*—a parish that has provided for continuous local governmental entity approval or rejection for all industrial ad valorem tax exemption applications within the parish.

*Job*—positions of employment that are:

1. new (not previously existing in the state) or retained;

2. permanent (without specific term);

3. full-time (working 30 or more hours per week);

4. employed directly, by an affiliate or through contract labor;

5. based at the manufacturing establishment;

6. filled by a United States citizen who is domiciled in Louisiana or who becomes domiciled in Louisiana within 60 days of employment; and

7. any other terms of employment as negotiated in the exhibit A, including a requirement that in order to qualify as a job, a basic health benefits plan is or has been offered in conjunction with the position of employment.

*Local Governmental Entity*—the parish governing authority, school board, sheriff, and any municipality in which the manufacturing establishment is or will be located.

*Maintenance Capital*—costs incurred to conserve as nearly as possible the original condition.

*Manufacturer*—a person or business who engages in manufacturing at a manufacturing establishment.

*Manufacturing*—working raw materials by means of mass or custom production, including fabrication, applying manual labor or machinery into wares suitable for use or which gives new shapes, qualities or combinations to matter which already has gone through some artificial process. The resulting products must be suitable for use as manufactured products that are placed into commerce for sale or sold for use as a component of another product to be placed, and placed into commerce for sale.

*Mega-Project*—a manufacturing establishment that provides all of the following:

1. 500 jobs, employed directly, only, and otherwise meeting the definition of jobs, which shall generate a minimum of \$20,000,000 in net new payroll within three years of the beginning of operations; and

2. a minimum of \$100,000,000 in capital expenditures.

*Obsolescence*—the inadequacy, disuse, outdated or non-functionality of facilities, infrastructure, equipment or product technologies due to the effects of time, decay, changing market conditions, invention and adoption of new product technologies or changing consumer demands.

*Qualified Disaster*—

1. a disaster which results from:
  - a. an act of terror directed against the United States or any of its allies; or

- b. any military action involving the Armed Forces of the United States and resulting from violence or aggression against the United States or any of its allies (or threat thereof), but not including training exercises;

2. any disaster which, with respect to the area in which the manufacturing establishment is located, resulted in a subsequent determination by the president of the United States that such area warrants assistance by the federal government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act;

3. a disaster which is determined by an applicable federal, state, or local authority (as determined by the secretary) to warrant assistance from the federal, state, or local government, or agency or instrumentality thereof; or

4. any other extraordinary event that destroys or renders all or a portion of the manufacturing establishment inoperable.

*Rehabilitation*—the extensive renovation of a building or project that is intended to cure obsolescence or to repurpose a facility.

*Required Environmental Capital Upgrades*—upgrades required by any state or federal governmental agency in order to avoid fines, closures or other penalty. Environmental upgrades demonstrated to be in excess of state and federal governmental agency requirements shall not be considered required environmental capital upgrades.

*Restoration*—repairs to bring a building or structure to at least its original form or an improved condition.

*Secretary*—secretary of the Louisiana Department of Economic Development.

*Site*—one or more contiguous parcels of land which are under the control of the manufacturing establishment or which contains certain assets of the manufacturing establishment.

### §503. Advance Notification; Application

\* \* \*

H. Upon the board's approval of an application, the department, on behalf of the board, shall, within three business days, transmit a copy of the approval and Exhibit A by mail or electronic mail to each local governmental authority and the assessor in the parish in which the manufacturing establishment is or will be located. The department shall post notice of the board's approval of an application on the department's website within three business days of approval, upon which date shall begin a notice period of 30 days for the parish governing authority (speaking on behalf of the parish and all parish bodies who are located outside the boundary of any affected municipality who receive a millage), the school board, any applicable municipality (speaking on behalf of the municipality and all municipal bodies who receive a millage) and the sheriff to initiate action to approve or reject the board's action as provided hereinafter.

1. Within the 30-day notice period, the parish governing authority, the school board, or any affected municipality may identify the application on the agenda of a public meeting notice and the sheriff may issue a letter approving or denying the application, and notice of these actions shall be given to the department within three business days. A local governmental entity that places the application on the agenda for a public meeting will have an additional 30 days (for a total of 60 days from the start of the notice period) to conduct a public meeting issuing a resolution approving or rejecting the board approved application, and notice of the issuance shall be given to the department within three business days. If a local governmental entity does not take action or provide notice as required herein, then the application will be deemed approved by each such entity.

- 2.a. A parish shall be ITEP Ready if each local governmental entity in the parish approves the designation by a majority vote at a public meeting, agreeing to either approve or reject all industrial ad valorem tax exemption applications and projects within their jurisdictions, including, in the case of continuous approval, all terms and conditions provided in any proposed industrial ad valorem tax exemption agreement. The parish governing authority, the school board, and each municipality authorized to receive a millage in the parish shall individually evidence its vote for or against the parish becoming ITEP ready by resolution. The sheriff shall evidence his vote for or against the parish becoming ITEP ready by letter. The 30-day notice period in which local governmental entities are authorized to hold a public hearing for the purpose of approving or rejecting an industrial ad valorem tax exemption application shall not apply to ITEP ready parishes. The governing authority of a parish that is ITEP ready shall submit to the department a resolution on behalf of the parish and all local governmental entities in the parish stating the continuous approval or continuous rejection of industrial ad valorem tax exemption applications within its jurisdiction. No further action evidencing local governmental entity approval or rejection shall be required.

- b. Any local governmental entity within an ITEP ready parish may change its intent to be ITEP ready for the next calendar year. This change shall be evidenced by a

resolution or letter presented to the Board of Commerce and Industry no later than December 31 of any year and shall be in effect for one calendar year beginning January 1 of the following calendar year. A parish shall remain ITEP Ready unless a change is made in accordance with this Subparagraph.

3. Within 60 days of the promulgation of these rules, the local governmental entities for each parish (in consultation with the parish assessor and, upon request, with guidance from the department), shall make best efforts to develop reasonable guidelines for application approval and/or denial and if so desired, penalty guidelines for failure to achieve and maintain jobs and/or payroll as required by the exhibit A.

BE IT FURTHER RESOLVED that the rules as amended by the provisions of this Resolution shall apply to industrial ad valorem tax exemption applications filed on or after August 1, 2020.

BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the Office of the State Register.

BE IT FURTHER RESOLVED that the office of the state register is hereby directed to have the amendments to LAC 13:I.502 and 503.H printed and incorporated into the *Louisiana Administrative Code*.

Representative Gerald “Beau” Beaulieu IV  
and  
Representative Les Farnum

# Potpourri

## POTPOURRI

### Department of Agriculture and Forestry Board of Veterinary Medicine

#### Board Nominations

The Louisiana Board of Veterinary Medicine announces that nominations for the position of Board Member will be taken by the Louisiana Veterinary Medical Association (LVMA) at the annual winter meeting to be held in late January 2020. Interested persons should submit the names of nominees directly to the LVMA as per R.S. 37:1515. It is not necessary to be a member of the LVMA to be nominated. The LVMA may be contacted at (225) 928-5862.

#### Spring/Summer Examination Dates

The Louisiana Board of Veterinary Medicine will administer the State Board Examination (SBE) for licensure to practice veterinary medicine on the first Tuesday of every month. Deadline to apply for the SBE is the third Friday prior to the examination date desired. SBE dates are subject to change due to office closure (i.e. holiday, weather).

The board will accept applications to take the North American Veterinary Licensing Examination (NAVLE) which will be administered through the International Council for Veterinary Assessment (ICVA), formerly National Board of Veterinary Medical Examiners (NBVME), and the National Board Examination Committee (NBEC), as follows.

Test Window Date	Deadline To Apply
April 13 - April 25, 2020	February 1, 2020
September 1 - December 31, 2020	August 1, 2020

The board will also accept applications to take the Veterinary Technician National Examination (VTNE) which will be administered through American Association of Veterinary State Boards (AAVSB), for state registration of veterinary technicians as follows.

Test Window Date	Deadline To Apply
March 15 - April 15, 2020	February 15, 2020
July 15 - August 15, 2020	August 1, 2020

Applications for all examinations must be received on or before the deadline. No late application will be accepted. Requests for special accommodations must be made as early as possible for review and acceptance. Applications and information may be obtained from the LBVM office at Florida Blvd, Baton Rouge, LA 70806, via telephone at (225) 925-6620, and by e-mail at [admin@lsbvm.org](mailto:admin@lsbvm.org); application forms and information are also available on the website at [www.lsbvm.org](http://www.lsbvm.org).

#### Board Meeting Dates

The members of the Louisiana Board of Veterinary Medicine will meet at 8:30 a.m. on the following dates in 2020:

Thursday, February 6, 2020  
Thursday, April 2, 2020  
Thursday, June 4, 2020 (Annual Meeting)  
Thursday, August 6, 2020  
Thursday, October 1, 2020  
Thursday, December 3, 2020

These dates are subject to change, so please contact the board office via telephone at (225) 925-6620 or email at [admin@lsbvm.org](mailto:admin@lsbvm.org) to verify actual meeting dates.

Jared B. Granier  
Executive Director

2006#029

## POTPOURRI

### Department of Health Office of Public Health

Correction of Day/Date to Submit Comments  
on Proposed Rule  
Certification of Laboratories Performing  
Drinking Water Analyses  
(LAC 48:V.Chapter 80)

In accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., the Department of Health, Office of Public Health published a Notice of Intent in the May 20, 2020 edition of the *Louisiana Register* (Volume 46) to amend Chapter 80 (Accreditation of Laboratories Performing Drinking Water Analyses) of Subpart 28 (Drinking Water Laboratories) of Title 48 (Public Health—General) of the *Louisiana Administrative Code* (LAC). The Notice of Intent proposed to withdraw the LDH-OPH Laboratory Accreditation Program from the NELAC Institute (TNI), and the National Environmental Laboratory Accreditation Program (NELAP). In addition, it proposes to rename the program to the LDH-OPH Laboratory Certification Program.

The Notice of Intent incorrectly noted the date as Tuesday, June 29, 2020 in the Public Comments and Public Hearing sections. Any interested person who would like to submit written comments on the proposed Rule should have them delivered no later than Monday, June 29, 2020 at 4:30 p.m. and should be sent to the address provided in the Notice of Intent.

Dr. Courtney N. Phillips  
Secretary

2006#028

**POTPOURRI**

**Department of Insurance  
Office of Health, Life and Annuity Insurance**

**Annual HIPAA Assessment Rate**

Pursuant to Louisiana Revised Statute 22:1071(D)(2), the annual HIPAA assessment rate has been determined by the Department of Insurance to be .00029 percent.

Frank Opelka  
Deputy Commissioner

2006#006

/Pages/ReadAdministrativeRules.aspx. If you have any questions or need more information, please contact Steve Hawkland at 225-287-7472 or Ray Wood at 225-287-7475.

Due to recent events, the Louisiana Department of State will modify the format of the administrative rule hearing currently scheduled for Friday, July 10, 2020, at 9:30 am on the proposed rule. This will proceed via Google Meet using the following link: [meet.google.com/tma-imrh-pqe](https://meet.google.com/tma-imrh-pqe). Alternatively, one can join by phone at the following number: +1 617-675-4444 (PIN: 498 694 534 7599#).

Ray Wood  
Attorney

2006#017

**POTPOURRI**

**Department of State  
Business Services Division**

**Public Hearing Rescheduling and Modification**

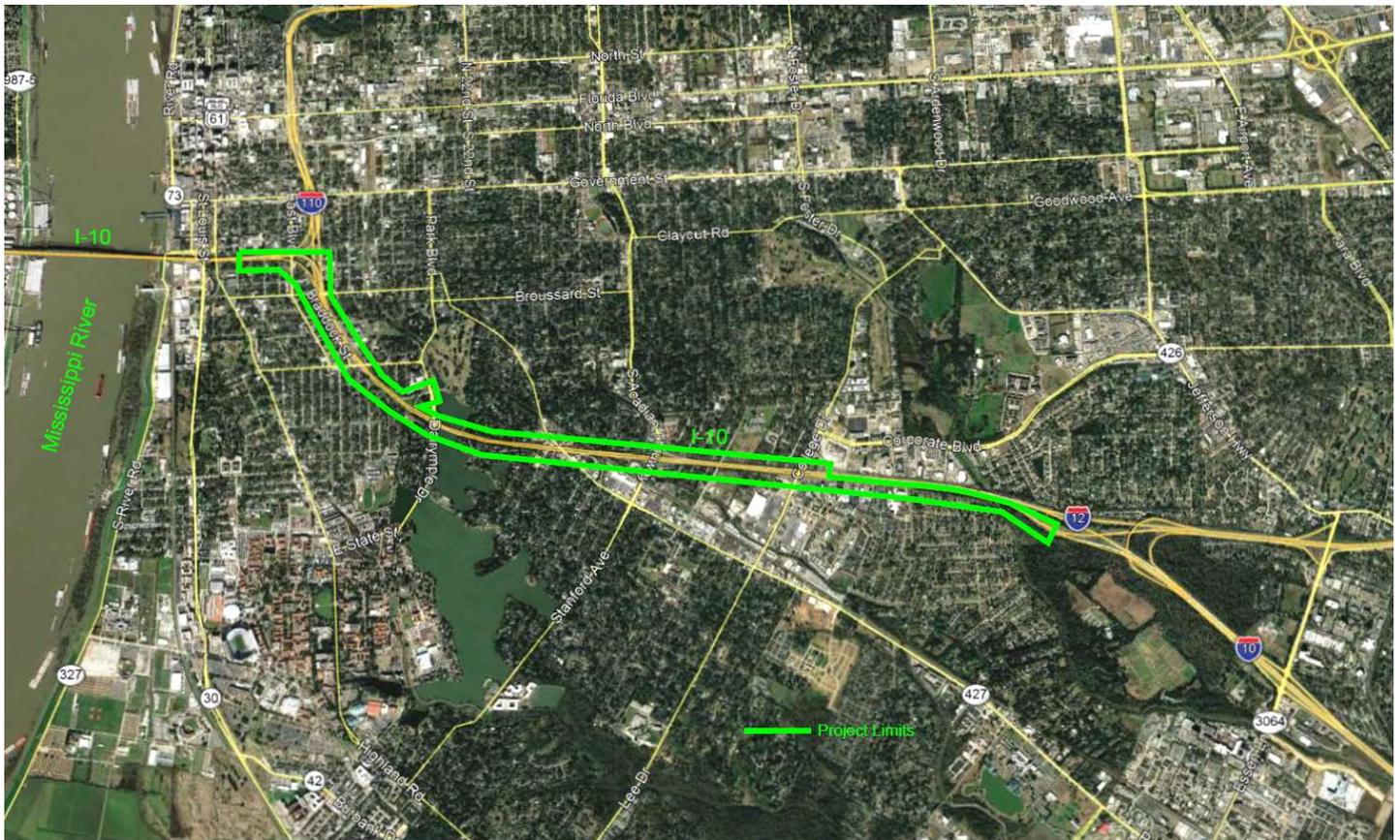
The Louisiana Department of State is rescheduling its public hearing, which was originally scheduled to be held on April 24, 2020 but was cancelled due to COVID-19, for Friday, July 10, 2020 at 9:30 am, in connection with a proposed rule authorizing the use of an optional commercial application programming interface (API). The comment period for the proposed rule will end on July 17, 2020, at 4:30 pm. Please refer to the March 20, 2020 publication of the Notice of Intent for more information or check our website at <https://www.sos.la.gov/BusinessServices>

**POTPOURRI**

**Department of Transportation and Development**

**Construction Management at Risk Project  
State Project No. H.00410 I-10  
LA 415 to Essen Lane on I-10 and I-1,  
West and East Baton Rouge Parishes**

The Louisiana Department of Transportation and Development (LA DOTD) is announcing the LA DOTD's intent to enter into a Construction Management at Risk (CMAR) contract with a CMAR Contractor, possessing qualified construction contracting capability, for Phase I of the I-10: LA 415 to Essen Lane on I-10 and I-12 project (the "Project").



The ultimate Project includes urban freeway capacity improvements from Washington Street to east of the I-10/I-12 split on I-10 and I-12. The phasing and timing of the ultimate build-out is dependent upon the timing and availability of funding.

The major elements of the Project may include, but are not limited to the following, and may be amended in the Request for Qualifications (RFQ):

- Freeway widening by the addition of one travel lane to the westbound (WB) direction of I-10 from Washington Street to College Drive and one travel lane to the eastbound (EB) direction of I-10 from Washington Street to east of the I-10/I-12 split on I-10;
- Modifications to interchanges at Washington Street, Dalrymple Drive, Perkins Road, Acadian Thruway, and College Drive, as well as the replacement of the Nairn Drive overpass;
- Associated work, which may include noise barriers, Interstate lighting, Interstate guide signs, traffic signals, and pedestrian and bicyclist accommodations;
- Roundabouts at Terrace Avenue and Braddock Street, the Washington Street interchange, and Dalrymple Drive at East Lakeshore Drive;
- Utility coordination, as necessary;
- Maintenance of traffic in a congested and confined urban freeway environment; and
- Context sensitive solutions and community connections.

The anticipated Pre-construction Services Agreement execution date for the Project is no later than January 5, 2021.

Responses to this Notice of Intent (NOI) and the following RFQ will be evaluated to determine the most highly qualified Proposer that is able to provide both pre-construction services and, if successfully negotiated, construction services for the Project.

The LA DOTD is seeking a CMAR Contractor for the Project that is committed to quality; has proven experience in pre-construction and construction services related to the construction of urban highway and bridge freeway projects; will bring innovative approaches and a collaborative work effort to the Project; will ensure timely completion; and is willing to partner with the LA DOTD and its Design Professional and Independent Cost Estimator for the mutual success of the Project.

Firms/teams interested in providing the services for the Project should submit a Letter of Interest (LOI) to I-10BR.CMAR@la.gov. All correspondence with the LA DOTD on matters concerning this NOI and the subsequent RFQ for the Project should be made in writing to this E-mail address.

An LOI from Proposers in response to this NOI will be due by July 28, 2020. The LOI should, at a minimum, name the proposed primary team members (if the LOI is being submitted by a team) and contact information (name, telephone number, address, and E-mail address) for the official point of contact for the Proposer.

Proposers that provide the LA DOTD with an LOI will be issued the RFQ and will be placed on a list of interested firms that will be placed on the LA DOTD Web site (<http://www.dotd.la.gov>).

Christopher P. Knotts  
Chief Engineer

2006#015

## POTPOURRI

### Department of Transportation and Development Professional Engineering and Land Surveying Board

#### Public Hearing—Substantive Change to Proposed Rule Supervising Professionals (LAC 46:LXI.2305)

The Louisiana Professional Engineering and Land Surveying Board published a Notice of Intent to amend two sections of its rules in the October 20, 2019 edition of the *Louisiana Register*. The board now proposes to proceed with amending only one of the sections identified in the Notice of Intent, specifically §2305. This Section (which has not changed since the Notice of Intent) would read as follows:

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part LXI. Professional Engineers and Land Surveyors Chapter 23. Firms

#### §2305. Supervising Professional

A.1. Each firm licensed with the board shall designate one or more supervising professionals. Each supervising professional shall be a licensed professional:

a. whose primary employment is with the firm, provided the supervising professional works for the firm for a 12-month average of at least 30 hours per week or 130 hours per month; or

b. whose employment is with the firm, provided the supervising professional has at least a 25 percent ownership interest in the firm.

A.2. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:689.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 5:115 (May 1979), amended LR 8:191 (April 1982), LR 10:343 (April 1984), LR 11:362 (April 1985), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1036 (July 2001), LR 30:1719 (August 2004), LR 33:2789 (December 2007), LR 35:2856 (December 2009), LR 38:1418 (June 2012), LR 44:623 (March 2018), LR 46:

#### Public Hearing

In accordance with R.S. 49:968(H)(2), a public hearing will be held on July 21, 2020 at 10:30 a.m. at the Louisiana Professional Engineering and Land Surveying Board, 9643 Brookline Avenue, Suite 121, Baton Rouge, LA 70809-1433.

Donna D. Sentell  
Executive Director

2006#042

# Agency Hearings—Emergency Cancellations or Modifications

Agency Hearings conducted pursuant to R.S. 49:953(A)(2)(a) and R.S. 49:968(H)(2) and Meetings [Modified pursuant to Proclamations 30 JBE 2020 and 41 JBE 2020]

## Department of Environmental Quality

If you have any questions or need further information, please contact Deidra Johnson at (225) 219-4053 or Laura Almond at (225) 219-3981. You may also reach them by Email at [Deidra.johnson@la.gov](mailto:Deidra.johnson@la.gov) or [laura.almond@la.gov](mailto:laura.almond@la.gov).

Due to recent events, the Louisiana Department of Environmental Quality will **modify the format** of the administrative rules hearing currently scheduled for Thursday, June 25, 2020, at 1:30 pm, on proposed rule WQ106. This will proceed **via Zoom meeting** using the following link:

<https://deqlouisiana.zoom.us/j/92221523419?pwd=U0NBRnFjSGg3bUlxaU9aaFhLdzJIQT09>

Password: 191316

Or Telephone:

Dial:

+1 253 215 8782

+1 301 715 8592

+1 312 626 6799

+1 346 248 7799

+1 669 900 6833

+1 929 205 6099

Conference code: 725573

Find local AT&T Numbers:

<https://www.teleconference.att.com/servlet/glbAccess?process=1&accessNumber=2532158782&accessCode=725573>

If you have any questions or need further information, please contact Deidra Johnson at (225) 219-4053 or Laura

Almond at (225) 219-3981. You may also reach them by Email at [Deidra.johnson@la.gov](mailto:Deidra.johnson@la.gov) or [laura.almond@la.gov](mailto:laura.almond@la.gov).

## Department of State

The Louisiana Department of State is rescheduling its public hearing, which was originally scheduled to be held on April 24, 2020 but was cancelled due to COVID-19, for Friday, July 10, 2020 at 9:30 am, in connection with a proposed rule authorizing the use of an optional commercial application programming interface (API). The comment period for the proposed rule will end on July 17, 2020, at 4:30 pm. Please refer to the March 20, 2020 publication of the Notice of Intent for more information or check our website at

<https://www.sos.la.gov/BusinessServices/Pages/ReadAdministrativeRules.aspx>

If you have any questions or need more information, please contact Steve Hawkland at 225-287-7472 or Ray Wood at 225-287-7475.

Due to recent events, the Louisiana Department of State will modify the format of the administrative rule hearing currently scheduled for Friday, July 10, 2020, at 9:30 am on the proposed rule. This will proceed via Google Meet using the following link:

[meet.google.com/tma-imrh-pqe](https://meet.google.com/tma-imrh-pqe)

Alternatively, one can join by phone at the following number: +1 617-675-4444 (PIN: 498 694 534 7599#).

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